

NORTHERN TERRITORY FISHERIES  
JOINT AUTHORITY

REPORT FOR PERIOD

1 July 1996  
to  
30 June 1997

Commonwealth of Australia 1998

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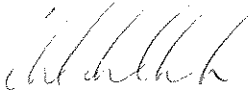
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*Fisheries Management Act 1991 (Commonwealth)*  
*Fisheries Act 1988 (Northern Territory)*

Northern Territory Fisheries Joint Authority  
Report of the Northern Territory Fisheries Joint Authority  
for the Period 1 July 1996 to 30 June 1997



The Hon Mark Vaile, MP  
Minister for Agriculture,  
Fisheries and Forestry  
Parliament House  
CANBERRA



The Hon Michael James Palmer  
Northern Territory Minister  
for Primary Industry and  
Fisheries  
Parliament House  
DARWIN

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## 1. INTRODUCTION

This, the tenth report of the Northern Territory Fisheries Joint Authority (NTFJA), outlines the functions and activities undertaken by the Authority throughout the period 1 July 1996 to 30 June 1997.

The Commonwealth *Fisheries Management Act 1991* provides for the Commonwealth and the States/Territories to establish a Joint Authority comprising the relevant Commonwealth and State/Territory Ministers. Complementary provisions are found in Part VI of the Northern Territory (NT) *Fisheries Act 1988*.

On the 3 February 1995, the NTFJA, subject to the provisions of the *Fisheries Management Act 1991* and the NT *Fisheries Act 1988*, assumed responsibility for the management, in waters adjacent to the Northern Territory, of the:

- o demersal fishery;
- o finfish trawl fishery;
- o Timor Reef fishery; and
- o shark fishery - encompassing the coastal, Arafura and Gulf of Carpentaria regions.

These arrangements provide for the management of fisheries resources contained in the Arrangement between the Commonwealth of Australia and the Northern Territory, published in the Australian Government Gazette of 1 February 1995 and the Northern Territory Gazette of 1 February 1995 (No. S7, 1 February 1995). A copy of this Arrangement is at Annex A.

The Arrangement provides, amongst other things, that the fishery be managed under Northern Territory law.

## 2. MEMBERS OF THE NORTHERN TERRITORY FISHERIES JOINT AUTHORITY

The members of the NTFJA for the reporting period were:

The Hon Warwick Parer  
Commonwealth Minister for Resources and Energy; and

The Hon Michael James Palmer  
Northern Territory Minister for Primary Industry and Fisheries.

Deputies for the NTFJA were:

for the Commonwealth Minister -  
Mr Richard Stevens  
Managing Director  
Australian Fisheries Management Authority; and

Ms Mary Harwood  
Assistant Secretary

Fisheries and Aquaculture Branch  
Commonwealth Department of Primary Industries and Energy.

for the Northern Territory Minister -

Mr Darryl Grey  
Director of Fisheries  
Northern Territory Department of Primary Industry and  
Fisheries (NTDPIF)  
(1 July 1996 - 18 February 1997)

Mr David Hall  
Director of Fisheries  
NTDPIF  
(21 May - 30 June 1997)

Rosemary Lea  
Senior Fisheries Management Officer  
NTDPIF  
(26-29 May 1997)

Secretariat services were provided by the Assistant Director, Fisheries Management, NTDPIF, until 29 May 1997 with the Senior Fisheries Management Officer, NTDPIF, or the person undertaking the duties and functions of this position appointed as Secretary for the period 29 May 1997 to 30 June 1997.

### 3. FUNCTIONS AND POWERS OF THE NORTHERN TERRITORY FISHERIES JOINT AUTHORITY

The NT *Fisheries Act 1988* provides for the functions of Joint Authorities. Similar provisions are found in the *Fisheries Management Act 1991* (Section 78). In brief, the NTFJA has the function of:

- (a) keeping constantly under consideration the condition of the fishery;
- (b) formulating policies and plans for the good management of the fishery, and for the purposes of the management of the fishery exercising the powers conferred on it by the NT *Fisheries Act 1988*; and
- (c) co-operating and consulting with the other authorities including other Joint Authorities within the meaning of the Commonwealth Act, in matters of common concern.

The NTFJA has the following objectives in the performance of its functions:

- (a) ensuring, through proper conservation, preservation and fisheries management measures, the living resources of the waters to which the Act applies are not endangered or over exploited; and

(b) achieving the optimal utilisation and equitable distribution of those resources.

Management of the recreational component of NTFJA fisheries resides with the NTDPIF.

#### 4. ACTIVITIES OF THE NORTHERN TERRITORY FISHERIES JOINT AUTHORITY

A meeting of the NTFJA was convened on 29 May 1997. Decisions arising from the NTFJA are provided in Annex B.

#### 5. ADVISORY COMMITTEES

The NT *Fisheries Act 1988* provides for the appointment of Fisheries Management Advisory Committees (MACs) to assist in the preparation of management plans and to provide advice on any operational plans.

Members to the Shark Fishery MAC were appointed in early 1993. Appointment to the Demersal Fishery MAC was confirmed in 1995. A call for expressions of interest for appointment of a Timor Reef Fishery MAC was made in 1995. No meetings of the Shark Fishery and Demersal Fishery MACs were convened throughout the reporting period. No formal appointments had been made to the Timor Reef Fishery MAC by the end of the reporting period.

#### 6. CONDITION OF THE FISHERIES

##### Timor Reef Fishery

Goldband snapper (*Pristipomoides multidens*) constitutes about 75 percent of the catch of the Timor Reef fishery. Sharptooth snapper (*Pristipomoides typus*), saddle tail snapper (*Lutjanus malabaricus*), red snappers (*Lutjanus erythropterus* and *L. malabaricus*), red emperor (*Lutjanus sebae*), together with a variety of cods (*Epinephelus spp.*) and emperors (*Lethrinus spp.*) were also landed.

Population estimates for goldband snapper draw on analysis of logbooks completed by commercial fishers. As an outcome, annual sustainable yield for goldband snapper has been estimated at 400 to 1,000 tonnes. Catch landings are approaching the lower yield estimate.

There is some suggestion that the demersal fishery stocks, including goldband snapper, are straddling both the Australian and the Indonesian fisheries. This means that the rapid expansion of fishing effort within Indonesian waters may adversely impact on the Timor Reef fishery. For this reason there is a need to determine the level of mixing and to gather further details on the status of stocks and fishing development programs in adjacent jurisdictions.

A joint project is currently under way to gather further details on the stock structure of goldband snapper within Northern Territory and Western Australian waters. This

project is funded by the Fisheries Research and Development Corporation (96/131) and is to be completed in 1998.

The study of the goldband snapper (Timor Reef) fishery by Professor Walters applied three separate assessment methods to the fishery, viz:

- surplus production model to catch and catch per unit of effort (CPUE) from commercial fishers daily logbook data;
- age structure model to catch and CPUE; and
- fitting an age structured model to catch and catch age composition information.

Complete details may be found in the Workshop proceedings, published by the NTDPIF, in Fishery Report No 39.

An alternative hypothesis offered for the management of similar fisheries suggests that sustainable harvest rates should be lower than the natural mortality rates. This would suggest an annual harvest of 10-15 percent of the entire goldband snapper stocks. If it is assumed that the stock is 3,000 tonnes (lowest estimate), then the current harvest rate is unlikely to be sustainable over the medium to longer term. Alternatively, if the upper estimate of 9,000 tonnes is used effort could be doubled to 2,000 boat days per annum.

Available information would suggest that there is little likelihood of stock collapse in the short term. Should the lowest estimates of yield prove correct, the fishery will draw on the accumulated stocks of older fish.

The straddling nature of the stock has significant implications for the management of the Timor Reef fishery. A high exploitation rate in one region may directly influence catch rates in another. The extent of movement of goldband snapper requires further investigation. In order of priority, there is a need to:

- assess the movement rates between the Australian and Indonesian Fishing Zones through tagging, logbooks and survey data on spatial trends in fish concentrations and concentration of fishing effort;
- determine the current, and likely future trends, in fishing effort, including illegal incursions into the Australian component of the fishery; and
- evaluate the stock size of goldband snapper by way of tagging, broad area density surveys and localised stock depletion assessment techniques.

Timor Reef fishery production figures and management arrangements are summarised in Annex D.

### **Shark Fishery**

Black-tip shark (*Carcharinus tilstoni* and *C.sorrah*) and grey mackerel (*Scomberomorus semifasciatus*) are the principal species landed by the Northern Territory shark fishery. Other



commonly caught species include hammerheads (*Sphyrna spp.*), milk sharks (*Rhizoprionodon acutus*), school mackerel (*Scomberomorus queenslandicus*) together with long-tail tuna (*Thunnus tonggol*) and mackerel tuna (*Euthynnus affinis*).

Between 1972 and 1986, Taiwanese vessels used gillnets to take a range of species, with the majority of effort recorded offshore from the Wessel Islands. Shark, longtail tuna and mackerel (*Scomberomorus spp.*) were landed by pelagic gillnets operated by foreign crews, with shark comprising in excess of 80 percent of the weight of all landings.

The declaration of the Australian Fishing Zone (AFZ) in 1979 saw the foreign fishing fleet's exclusion zone adjacent to Arnhem Land and the Wessel Islands increased to between 40 and 50 nautical miles (nm) offshore. Following the declaration of the AFZ, a bilateral agreement was reached between Australia and Taiwan for 30 gillnetters to land up to 7,000 tonnes from Northern Australian waters.

With declining trends in shark catch rates and concerns about the incidental capture of dolphins, the maximum length of gillnets was set at 2.5 kilometres (km) in 1986. Taiwanese operators had regularly used nets up to 20 km in length prior to these restrictions. These controls appear to have rendered Taiwanese gillnet vessels uneconomical, with fishing operations in northern Australia waters ceasing in late 1986.

Under subsequent joint venture arrangements, eight Taiwanese longliners landed about 1,700 tonnes of shark between February 1990 and September 1991.

A joint NTDPIF and CSIRO research program estimated a sustainable harvest of about 3,400 tonnes of black-tip sharks throughout northern Australia.

A joint Australia-Indonesia Workshop on Arafura Sea fisheries, held in Darwin in 1992, developed an age-structure model to assess the status of the shark fishery. No definite assessments about potential yields could be made due to inconsistencies in reporting and collation of catch and effort details.

Research undertaken to date has focused on black-tip shark stocks. Little is known about the status of other sharks or other fish species taken as an incidental catch of shark fishing operations.

Worldwide experience has shown that shark stocks are particularly susceptible to overfishing, due to their longevity (long lived) and low fecundity (few offspring). Landings of black-tip sharks in Northern Territory waters are considerably lower than historical catches and significantly less than available sustainable yield indications.

Further details about production are provided in Annex D.

## Demersal Finfish Fishery

The fish resources of the Arafura Sea, Timor Sea and the Gulf of Carpentaria have been the subject of considerable interest from Taiwanese (1972-91), Thai (1985-90) and Chinese (1989) fleets. Domestic fishing operators have been active in this fishery since around 1990.

A review of scientific modeling of past catch and effort trends and population estimates was undertaken in 1992, following ongoing research by the NTDPIF and CSIRO.

Scientific modeling estimates suggest sustainable landings of 3,700 to 6,800 tonnes and 2,900 to 9,000 tonnes for red snappers for the AFZ component of the Arafura Sea and Gulf of Carpentaria respectively. Recorded landings of demersal finfish by domestic operators are considerably lower than these estimates.

Sustainable yield estimates derived from commercial logbook data, observations of foreign fishing activities and trawl surveys were reviewed by Professor Carl Waters, an internationally recognised authority on fisheries management matters, in October 1996. This review was published in Fishery Report No 39, *"Towards the Sustainable Use of Northern Territory Fisheries Resources: Review Workshop Led By Carl J. Walters"*.

The assessment techniques included:

- the assessment of long term exploitation rates (annual sustainable portion of the stock harvested) from growth data; and
- application of this exploitation rate to estimate unfished and current stock biomass based on stock reduction analysis (SRA).

These techniques do not usually provide a precise stock size estimate, but rather provide an insight into the magnitude of likely stock size and biological sustainable harvest levels.

The SRA model suggests a sustainable harvest of 1,500 tonnes from an estimated unfished stock of 50,000 tonnes of red snappers within the AFZ. Possible yield estimates may be improved by:

- detailed mapping of spatial habitat patterns; and
- determining population estimate inputs by localised depletion studies and tagging experiments.

Available indicators suggest that red snapper stocks are not subject to risk of biological overexploitation given the conservative management arrangements implemented. Such arrangements include a ceiling on the number of commercial licences, together with restrictions on the fishing gear that may be used. Significant opportunities exist for authorised operators to further develop this fishery. However, the

implications of fishing activities undertaken in both national and international adjacent jurisdictions, given the likelihood of straddling fishery stocks, requires further investigation.

The NTDPPIF, on behalf of the NTFJA, has established a facility for collation of catch and effort information from commercial operators. It is from this information, and ongoing research, that the condition of the fishery will be kept under review.

### **Finfish Trawl Fishery**

Red snappers are the key species landed within the NTFJA finfish trawl fishery. Confidentiality considerations preclude the publishing of production levels for the single licence holder. However, on the basis of available information, current harvest levels are not considered as a threat to the biological sustainability of the fisheries resources of this region.

Catch details for the Timor Reef and Demersal Fisheries are provided in Annex D.

## **7. MANAGEMENT ARRANGEMENTS**

A complete summary of the management arrangements implemented for NTFJA fisheries is provided in Annex D. The information detailed is current for the duration of the reporting period only. Readers seeking specific advice about present management arrangements should consult the NT *Fisheries Act 1988* and Northern Territory Fisheries Regulations.

### **Shark Fishery**

Management of the shark fishery is achieved by input controls, which set a ceiling on the number of commercial licensees together with restrictions on the fishing gear employed. The number of shark fishery licences issued to participate in the fishery is restricted, by legislation, to a maximum of 38 (restricted) licences. This reflects the number of valid access entitlements issued immediately prior to the revised Offshore Constitution Settlement arrangements, agreed in February 1995.

Commercial shark fishers may use a maximum of 2.5 km of pelagic gillnet constructed of twine not less than 0.9 millimetres (mm) in diameter and with a mesh size between 150 mm and 250 mm. Demersal set gillnets are not permitted to be used in the shark fishery in order to limit any interaction with turtles. Pelagic longline may be used in all regions (restrictions apply to the coastal zone) of the shark fishery, or demersal longline in the Arafura or Gulf of Carpentaria region, providing the total length of all lines used does not exceed 20 nm at any time. No restrictions apply to hook numbers.

## **Timor Reef Fishery**

Management arrangements set limits on the total number of commercial operators and prescribe the permitted fishing gear. These arrangements include:

- a limited entry licensing regime (7 unrestricted licences, 8 restricted licences);
- approved fishing gear including vertical lines with up to 5 hooks attached, : droplines with 6-40 hooks and fish traps;
- licence transfer policy providing for reduction in effort that requires the surrender of two restricted Timor Reef fishery licences for the issue of a (transferable) unrestricted Timor Reef fishery licence; and
- the holder of a Timor Reef fishery licence must also hold a demersal fishery licence to participate in the fishery.

Restrictions on the possession of a range of managed species, including Spanish mackerel and sharks, apply to commercial Timor Reef fishers.

## **Demersal Fishery - other than Timor Reef**

Limited entry management arrangements set a ceiling on the level of commercial participation at 60 operators.

Commercial fishermen may use vertical lines with up to 5 hooks attached, droplines with 6-40 hooks, and fish traps. There are no limits on the number of vertical lines, droplines or fish traps that may be used in this fishery. By-catch restrictions apply to key managed species, including Spanish mackerel and sharks.

Demersal fishery licences are freely transferable.

## **Finfish Trawl Fishery**

Management arrangements recognise, in legislation, the pre-existing fish trawling activities undertaken throughout northern Australia. Management interventions to ensure the biological sustainability of demersal finfish controls mirror the licence conditions in force prior to the introduction of revised OCS arrangements in February 1995. Such arrangements effectively cap the level of capacity within this fishery to a single operator. Additionally, area and fishing gear restrictions apply.

Management controls permit:

- a mesh size greater than 110 mm;
- a "cod end" (bag or pocket of net in which catch is retained) not covered by a double cod end liner;
- total weight on the footline not exceeding 4 kilograms (net weight in air) per linear metre; and
- twine size in the forward half not exceeding 90 ply by 400 denier (or its equivalent).

## 8. FISHERIES MONITORING, RESEARCH, SURVEILLANCE AND ENFORCEMENT

The NTDPIF has established, and continues to maintain, catch and effort information from commercial fishers operating in NTFJA fisheries. It is from such information, together with available research data, that the condition of the fishery is kept under review.

Research projects are ongoing, including:

- stock structure of goldband snapper resources across northern Australia;
- ageing of goldband snapper to assist in a predictive age structure population model; and
- on board monitoring of length data for the Timor Reef fishery.

Surveillance and enforcement functions for NTFJA fisheries are conducted by the Marine and Fisheries Enforcement Unit of the Northern Territory Police, Fire and Emergency Services, as part of their ongoing tasks in fisheries matters. Operationally, surveillance activities for NTFJA fisheries have been by way of in-port inspections of fishing gear to ensure compliance with effort controls.

## 9. FINANCIAL ARRANGEMENTS

Revenue received by the NTDPIF, on behalf of the NTFJA, for licences amounted to \$56,500 in the 1996/97 financial year.

**ANNEX A: Excerpt of the Northern Territory Government Gazette  
of 1 February 1995**

ARRANGEMENT BETWEEN THE COMMONWEALTH AND THE NORTHERN  
TERRITORY IN RELATION TO THE NORTHERN SHARK FISHERY

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the Northern Territory (the Territory) of the other part.

WHEREAS-

- (a) paragraph 4(1)(a) of the *Acts Interpretation Act 1901* of the Commonwealth provides that where an Act is enacted on or after the date of commencement of this section that is not to come into operation immediately upon its enactment, is expressed to confer power, *inter alia*, to make an instrument of a legislative or administrative character, then, unless the contrary intention appears, the power may be exercised, and anything may be done for the purpose of enabling the exercise of the power, before the Act concerned comes into operation as if it had come into operation;
- (b) subsection 2(2) of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act) provides that Part 5 of the Management Act, which provides for co-operation with the States and Northern Territory in the management of fisheries, commences upon the repeal or the ceasing to have effect (as the case may be) of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (c) by subsection 7(3) of the *Fisheries Legislation (Consequential Provisions) Act 1991* of the Commonwealth (the Consequential Provisions Act) as amended by section 24 of the *Primary Industries and Energy Legislation Amendment Act 1993* Part IVA of the *Fisheries Act 1952*, unless sooner repealed, ceases to have effect at the end of the period of 3 years beginning 3 February 1992, the day on which section 7 of the Consequential Provisions Act commenced;
- (d) paragraph 7(4)(a) of the Consequential Provisions Act provides that upon the commencement of Part 5 of the Act, the Northern Territory Fisheries Joint Authority, established by subsection 12D(1) of the *Fisheries Act 1952*, continues in existence as if it had been established under Part 5 of the Management Act;
- (e) Arrangements were entered into under section 12H(4) of the *Fisheries Act 1952* between the Commonwealth and the Territory in relation to the:
  - (i) Pelagic Fishery, published in the Commonwealth of Australia Gazette No. S109 on 14 April 1988;
  - (ii) Pelagic Fishery except with pelagic gillnets in waters within 12 nautical miles seaward of the baseline or by trolling, published in the Commonwealth of Australia Gazette No. S109 on 14 April 1988;

- (f) paragraph 7(4)(b) of the Consequential Provisions Act provides that upon the commencement of Part 5 of the Act, any arrangement made with a State or Territory under subsection 12H(1) or (4) of the *Fisheries Act 1952* that was in force immediately before that commencement continues in force as if it had been made under Part 5 of the Management Act;
- (g) the Arrangements referred to in paragraph (e) of this Arrangement were made under Division 3 of Part IVA of the *Fisheries Act 1952*;
- (h) subsection 75(1) of the Management Act provides that an Arrangement under Division 3 of Part 5 of the Management Act may be terminated by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (i) section 59 of the Management Act provides:
  - (i) that Part 5 of the Management Act has effect as if the Northern Territory was a State;
  - (ii) that a reference in that Part to the Governor of a State shall be read, in relation to the Northern Territory, as a reference to the Administrator of the Territory;
- (j) subsection 33(3) of the *Acts Interpretation Act 1901* provides *inter alia* that where an Act confers a power to make any instrument, the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal any such instrument;
- (k) subsection 8(1) of the *Interpretation Act 1978* of the Territory provides that where a provision of an Act is expressed to confer power, or to amend a provision of another Act in such a manner that the other Act, as amended, will confer power, to take any action, including power to make an appointment or to make an instrument of a legislative or administrative character then, before the first-mentioned provision or the second-mentioned provision as amended, as the case may be, comes into operation, that power may be exercised and anything may be done for the purposes of enabling the exercise of that power or of bringing the appointment or instrument into effect;
- (l) subsection 64(2) of the *Fisheries Act 1988* of the Territory (the Territory Act) empowers the Territory to terminate an arrangement under Part 5 of the Management Act;
- (m) subsection 71(1) of the Management Act provides that the Commonwealth may make an arrangement with a State or States represented on a Joint Authority that the Joint Authority is to have the management of a particular fishery in waters relevant to that State or any of those States;

- (n) subsection 74(1) of the Management Act provides that an arrangement under, *inter alia*, section 71 is to be made by an instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (o) subsection 64(1) of the Territory Act as amended by section 37 of the *Fisheries Amendment Act 1994* of the Territory empowers the Territory to make an arrangement under Part 5 of the Management Act;
- (p) both the Commonwealth and the Territory are desirous of exercising their powers to make a further Arrangement in relation to the fishery referred to in clause 2 of this Arrangement.

NOW THEREFORE, in pursuance of the Management Act and the Territory Act and of all other powers so enabling, it is mutually arranged as follows:

1. The Arrangements entered into between the Commonwealth and the Northern Territory as referred to in paragraph (e) of the recitals to this Arrangement are, pursuant to subsection 75 (1) of the Management Act and subsection 64(2) of the Territory Act, terminated.

2. The Commonwealth and the Territory hereby arrange that the fishery, being for any purpose other than recreation, in waters relevant to Northern Territory, being coastal waters and waters of the Australian fishing zone that lie within the area described in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* under the heading "Area that includes the Adjacent Area in respect of the Northern Territory", for:

(a) all fish of the Class Chondrichthyes (cartilaginous fishes) using any fishing method;

but excluding fish to which this paragraph otherwise would apply taken in the exercise of a right conferred in relation to another fishery by a fishing concession granted by the Australian Fisheries Management Authority under the Management Act;

(b) all fish of the Class Osteichthyes (bony fishes) taken in the exercise of a right conferred by a licence or other authority granted by the Territory on behalf of the Northern Territory Fisheries Joint Authority for the fish to which paragraph (a) applies;

is to be managed by the Northern Territory Fisheries Joint Authority in accordance with the law of the Territory.

3. The Minister responsible for administering the Management Act and the Minister responsible for administering the Territory Act may agree in writing to the maximum quantity of other fish the subject of paragraph 2(b) that may be taken from time to time under a licence or other authority referred to in that paragraph and on matters of mutual interest in relation to the fishery.



4. This Arrangement shall, upon being executed on behalf of the Commonwealth and of the Territory and upon being approved by the Governor-General of the Commonwealth and the Administrator of the Northern Territory, take effect on 3 February 1995.
5. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.

Dated 19th December, 1994

Signed for and on behalf of the  
Commonwealth of Australia by the  
Honourable DAVID PETER BEDDALL,  
Minister for Resources

Signed for and on behalf of the  
Northern Territory by the  
Honourable MICHAEL JAMES PALMER  
Minister for Primary Industry and Fisheries

in the presence of  
P. STEVEN

in the presence of  
A. R. SPRIGG

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsections 74(1) and 75(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated 24th January 1995.

By His Excellency's command  
D. P. BEDDALL  
Minister for Resources

B. HAYDEN  
Governor-General

I, KEITH JOHN AUSTIN ASCHE , the Administrator of the Northern Territory of Australia, acting by and with the advice of the Executive Council in pursuance of the provisions of the *Fisheries Act 1988*, hereby approve this instrument.

Given under my hand this 12th day of January, 1995.

By his Honour's command  
M. J. PALMER  
Minister for Primary Industry and Fisheries

K. J. A. ASCHE  
Administrator

ARRANGEMENT BETWEEN THE COMMONWEALTH AND THE NORTHERN TERRITORY IN RELATION TO THE DEMERSAL AND TIMOR REEF FISHERY

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the Northern Territory (the Territory) of the other part.

WHEREAS-

- (a) paragraph 4(1)(a) of the *Acts Interpretation Act 1901* of the Commonwealth provides that where an Act is enacted on or after the date of commencement of this section that is not to come into operation immediately upon its enactment, is expressed to confer power, *inter alia*, to make an instrument of a legislative or administrative character, then, unless the contrary intention appears, the power may be exercised, and anything may be done for the purpose of enabling the exercise of the power, before the Act concerned comes into operation as if it had come into operation;
- (b) subsection 2(2) of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act) provides that Part 5 of the Management Act, which provides for co-operation with the States and Northern Territory in the management of fisheries, commences upon the repeal or the ceasing to have effect (as the case may be) of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (c) by subsection 7(3) of the *Fisheries Legislation (Consequential Provisions) Act 1991* of the Commonwealth (the Consequential Provisions Act) as amended by section 24 of the *Primary Industries and Energy Legislation Amendment Act 1993* Part IVA of the *Fisheries Act 1952*, unless sooner repealed, ceases to have effect at the end of the period of 3 years beginning 3 February 1992, the day on which section 7 of the Consequential Provisions Act commenced;
- (d) paragraph 7(4)(a) of the Consequential Provisions Act provides that upon the commencement of Part 5 of the Act, the Northern Territory Fisheries Joint Authority, established by subsection 12D(1) of the *Fisheries Act 1952*, continues in existence as if it had been established under Part 5 of the Management Act;
- (e) an Arrangement was entered into under section 12H(4) between the Commonwealth and the Territory in relation to the Demersal Fishery except with the use of trawl nets and demersal longlines, published in the Commonwealth of Australia Gazette No. S109 on 14 April 1988;
- (f) paragraph 7(4)(b) of the Consequential Provisions Act provides that upon the commencement of Part 5 of the Act, any arrangement made with a State or Territory under subsection 12H(1) or (4) of the *Fisheries Act 1952* that was in force immediately before that commencement continues in force as if it had been made under Part 5 of the Management Act;
- (g) the Arrangement referred to in paragraph (e) of this Arrangement was made under Division 3 of Part IVA of the *Fisheries Act 1952*;

- (h) subsection 75(1) of the Management Act provides that an Arrangement under Division 3 of Part 5 of the Management Act may be terminated by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (i) section 59 of the Management Act provides:
  - (i) that Part 5 of the Management Act has effect as if the Northern Territory was a State;
  - (ii) that a reference in that Part to the Governor of a State shall be read, in relation to the Northern Territory, as a reference to the Administrator of the Territory;
- (j) subsection 33(3) of the *Acts Interpretation Act 1901* provides, *inter alia*, that where an Act confers a power to make any instrument, the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal any such instrument;
- (k) subsection 8(1) of the *Interpretation Act 1978* of the Territory provides that where a provision of an Act is expressed to confer power, or to amend a provision of another Act in such a manner that the other Act, as amended, will confer power, to take any action, including power to make an appointment or to make an instrument of a legislative or administrative character then, before the first-mentioned provision or the second-mentioned provision as amended, as the case may be, comes into operation, that power may be exercised and anything may be done for the purposes of enabling the exercise of that power or of bringing the appointment or instrument into effect;
- (l) subsection 64(2) of the *Fisheries Act 1988* of the Territory (the Territory Act) empowers the Territory to terminate an arrangement under Part 5 of the Management Act;
- (m) subsection 71(1) of the Management Act provides that the Commonwealth may make an arrangement with a State or States represented on a Joint Authority that the Joint Authority is to have the management of a particular fishery in waters relevant to that State or any of those States;
- (n) subsection 74(1) of the Management Act provides that an arrangement under, *inter alia*, section 71 is to be made by an instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (o) subsection 64(1) of the Territory Act as amended by section 37 of the *Fisheries Amendment Act 1994* of the Territory empowers the Territory to make an arrangement under Part 5 of the Management Act;
- (p) both the Commonwealth and the Territory are desirous of exercising their powers to make a further Arrangement in relation to the fishery referred to in clause 2 of this Arrangement.

NOW THEREFORE, in pursuance of the Management Act and the Territory Act and of all other powers so enabling, it is mutually arranged as follows:

1. The Arrangement entered into between the Commonwealth and the Territory as referred to in paragraph (e) of the recitals to this Arrangement is, pursuant to subsection 75(1) of the Management Act and subsection 64(2) of the Territory Act, terminated.
2. The Commonwealth and the Territory hereby arrange that the fishery, being for any purpose other than recreation, in waters relevant to the Territory, being coastal waters and waters of the Australian fishing zone that lie within the area described in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* under the heading "Area that includes the Adjacent Area in respect of the Northern Territory", on the seaward side of a line measured 15 nm from low water mark for:

(a) all fish of the Class Osteichthyes (bony fishes) using any fishing method, excluding tuna and tuna-like fish of the following species-

- (i) *Thunnus albacares* (Yellowfin tuna)  
*Thunnus maccoyii* (Southern bluefin tuna)  
*Thunnus obesus* (Bigeye tuna)  
*Thunnus tonggol* (Longtail tuna)  
*Thunnus alalunga* (Albacore tuna)  
*Thunnus thynnus* (Northern bluefin tuna)  
*Katsuwonus pelamis* (Skipjack tuna);

(ii) fish of the families Istiophoridae and Xiphiidae (billfish);

(iii) fish taken as bait (dead or alive) by a person for his or her own use in the exercise of a fishing concession granted by the Australian Fisheries Management Authority under the Management Act to take tuna and tuna like fish of those species;

but excluding fish to which this paragraph otherwise would apply taken in the exercise of a right in relation to another fishery conferred by a fishing concession granted by the Australian Fisheries Management Authority under the Management Act;

(b) all fish of the Class Chondrichthyes (cartilaginous fishes) taken in the exercise of a right conferred by a licence or other authority granted by the Territory on behalf of the Northern Territory Fisheries Joint Authority for the fish to which paragraph (a) applies;

is to be managed by the Northern Territory Fisheries Joint Authority in accordance with the law of Northern Territory.

3. The Minister responsible for administering the Management Act and the Minister responsible for administering the Territory Act may agree in writing to the maximum

quantity of other fish the subject of paragraph 2(b) that may be taken from time to time under a licence or other authority referred to in that paragraph and on matters of mutual interest in relation to the fishery.

4. This Arrangement shall, upon being executed on behalf of the Commonwealth and of the Territory and upon being approved by the Governor-General of the Commonwealth and the Administrator of the Northern Territory, take effect on 3 February 1995.
5. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.

Dated 19th December, 1994.

Signed for and on behalf of the  
Commonwealth of Australia by the  
Honourable DAVID PETER BEDDALL,  
Minister for Resources

Signed for and on behalf of the  
Northern Territory by the  
Honourable MICHAEL JAMES PALMER  
Minister for Primary Industry and Fisheries

in the presence of  
P. STEVEN

in the presence of  
A. R. SPRIGG

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsections 74(1) and 75(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated 24th January, 1995.

By His Excellency's command  
D. P. BEDDALL  
Minister for Resources

B. HAYDEN  
Governor-General

I, KEITH JOHN AUSTIN ASCHE , the Administrator of the Northern Territory of Australia, acting by and with the advice of the Executive Council in pursuance of the provisions of the *Fisheries Act 1988*, hereby approve this instrument.

Given under my hand this 12th day of January, 1995.

By His Honour's command  
M. J. PALMER  
Minister for Primary Industries and Fisheries

K. J. A. ASCHE  
Administrator

## **ANNEX B: Record of Decisions of the Northern Territory Joint Authority**

### **NORTHERN TERRITORY FISHERIES JOINT AUTHORITY Meeting No 3**

**WA Fisheries Department  
PERTH  
29 May 1996**

#### **Minutes of the Meeting**

#### **ATTENDANCE**

**Members:** Deputy for Commonwealth Minister for Resources  
Mr Richard Stevens  
Australian Fisheries Management Authority

Deputy for Northern Territory Minister for Primary  
Industry and Fisheries  
Mrs Rosemary Lea  
NT Fisheries Division  
Department of Primary Industry and Fisheries

**Observer:** Mr Peter Millington  
A/Director  
WA Fisheries Department

#### **1. PROCEDURAL MATTERS**

##### **1.1 Confirmation of Agenda**

The Agenda was confirmed by both Deputies, with the Commonwealth Deputy adding three items under Other Business, these being Item 3.1 - Decision Making Processes Under the Northern Territory Fisheries Joint Authority(NTFJA), 3.2 - Attendance at MOU Meetings, and 3.3 - NPF By-Catch Reporting.

##### **1.2. Administrative Matters**

##### **Appointment of Secretary to the Northern Territory Fisheries Joint Authority**

The Joint Authority approved the appointment of the Assistant Director, Aquatic Resource Management Branch of the Northern Territory Fisheries Division, Department of Primary Industry and Fisheries, or the person from time to time acting in, occupying or discharging the responsibilities of that position, to be the Secretary of the NTFJA pursuant to section 69(1) of the *Fisheries Management Act* 1991 (Cwth).



### 1.3 Confirmation of the 1995 and 1995/96 NTFJA Annual Reports

The 1995 and 1995/96 NTFJA Annual Reports were confirmed.

The Commonwealth Deputy noted that the Commonwealth Parliament placed considerable emphasis on the timely tabling of annual reports and that future annual reports will need to be tabled within 6 months of the end of the financial year.

It was agreed that the confirmed Annual Reports be passed to the respective Ministers for their consideration and Tabling in the Commonwealth Parliament and Northern Territory Legislative Assembly as required under section 70 of the *Fisheries Management Act 1991* (Cwlth) and section 63 of the *Fisheries Act 1988* (NT).

### 1.4 Confirmation of Minutes of the Meeting of the NT Fisheries Joint Authority No. 2 of 29 May 1996.

The minutes of the NTFJA meeting of 29 May 1996 were confirmed by both Deputies and signed by the Commonwealth Deputy, Mr Richard Stevens. These minutes had previously been confirmed and signed by the then NT Deputy, Mr Darryl Grey.

## 2. MATTERS FOR CONSIDERATION

### 2.1 Shark Fishery

#### 2.1.1 Management Arrangements

The NTFJA was advised by the NT Fisheries Division on -

- (i) suggested changes to the management arrangements for the transferability of restricted licences, including the 3 for 1 transfer arrangements in the Shark Fishery

The NTFJA noted the current status of these 3 for 1 licence transferability arrangements for the shark fishery and supported the NT member in bringing this matter to the NTFJA meeting to be held in Adelaide in July, after the matter is considered by the NT Shark Fishery Management Advisory Committee at its next meeting to be held in early July.

- (ii) the proposed modification to regulation 97(4) (Transfer of Licence) of the NT *Fisheries Regulations*.

The NTFJA noted the current status of discussions on the proposed amendment to regulation 97(4) of the NT *Fisheries Regulations* and again

supported the NT member in bringing this matter to an NTFJA meeting proposed to be held in Adelaide in July, after the matter is considered by the NT Shark Fishery Management Advisory Committee at its next meeting to be held in early July.

- (iii) possible Queensland Fisheries Management Authority endorsement of the NT Shark Fishery licence(s) for the Gulf of Carpentaria restricted zone as detailed under regulation 96C of the NT *Fisheries Regulations*.

The NTFJA noted advice from the NT Fisheries Division that informal discussions with the QFMA indicated that the Authority was prepared to support this mechanism for licensing fishermen in the Queensland side of the GOC but needed to check the legal implications to the QFMA of utilising this mechanism rather than issuing QFMA permits.

The NTFJA resolved to request the support of the Queensland Fisheries Management Authority for its endorsement of the NTFJA Shark Fishery GOC restricted licence as allowed for under section 67(4) of the *Fisheries Act 1988* (NT).

### 2.1.2 Licensing Arrangements

The NTFJA were advised by the NT Fisheries Division on:

- (i) a proposal for suggested changes to the number of licences in the Coastal Zone of the NTFJA Shark Fishery by the addition of a new licence.

The NTFJA noted the current status of licence discussions, including the intention of the NT Director of Fisheries for this matter to be addressed by the NT Shark Fishery Advisory Committee meeting prior to the next meeting of the NTFJA in Adelaide in late July.

- (ii) administrative action being taken by an existing "restricted" Arafura Zone licence holder, where that person seeks an additional "restricted" licence in the Gulf of Carpentaria Zone, this action arising from an historical administrative error printed on that person's Commonwealth Fishing permit.

The NT Director of Fisheries sought the NTFJA's support that he approach the licensee in an attempt to resolve the matter by consultation without it having to go to the NTFJA for consideration.

The NTFJA supported this approach to resolution of the matter.

### 2.1.3 Grey Mackerel Landed by QFJA Pelagic Net Licensees

The Commonwealth Deputy was advised of the NT Minister's support for the revision of the Commonwealth/Queensland Offshore Constitutional Settlement Arrangement for the Northern Demersal and Pelagic Fishery to include grey mackerel as part of the approved catch.

The Commonwealth Deputy agreed with the proposal and as a consequence, the NTFJA noted its support for the QFJA in listing grey mackerel as a key species approved for take by the QFJA Northern Pelagic and Demersal Fishery entitlement holders and resolved to advise the QFJA of this support in writing.

## **2.2 Demersal (including Fin Fish Trawl) Fishery Issues.**

### **2.2.1 Vessel Replacement Policy**

The NTFJA received a request from the NT Director of Fisheries to consider the applicability of the NT vessel replacement policy to the NTFJA.

The NTFJA agreed to adopt the NT vessel replacement policy for all NTFJA fisheries, including the fin fish trawl fishery.

The NTFJA was advised that an approval under the policy had already been given for the existing licence holder in the fin fish trawl fishery.

### **2.2.2 Access Entitlement for the Demersal and Fin Fish Trawl Fisheries**

- (i) the NTFJA were asked by the NT Director of Fisheries to ensure that access to demersal fin fish stocks in the Gulf of Carpentaria is undertaken in an orderly manner which takes into account access entitlements issued by respective JA's and state and territory jurisdictions and that allocation of take is made recognising a common yield estimate for the Gulf.

The NTFJA recommended that the NT Director of Fisheries write to the Chairman of the QFMA seeking confirmation of the approach being taken in that jurisdiction on this matter and recording the NT interest in such activities. A copy of this letter to be forwarded to the Chairman of the Australian Fisheries Management Authority for his information.

- (i) the Commonwealth Deputy was provided with advice on the NT Minister's position on fin fish trawling and any future access to the NTFJA's fin fish trawl fishery, this position being -
- the NT Minister has a clear position of not supporting the grant of any additional licences in the NTFJA fin fish trawl fishery; and
  - the NT Minister does not support the grant of additional entitlements for fin fish trawling in the QFJA sector of the Gulf of Carpentaria.

The Commonwealth Deputy noted the NT Minister's position on both matters.

### 2.2.3 Licence Transferability Policy

The Commonwealth Deputy was advised of the NT Minister's support for the issue of a transferable licence to the one existing licensee in the NTFJA fin fish trawl fishery.

The NTFJA agreed that the full implications of transferability of licences in any NTFJA fishery needed to be carefully considered and in particular should take account of -

- the objectives of the NT fisheries legislation;
- the implications for adjacent Joint Authorities; and
- the potential impact on the fishery through increased effort.

The Commonwealth Deputy was particularly concerned to ensure that, as far as possible, complimentary and consistent arrangements were applied across the three north Australian jurisdictions.

The NTFJA noted the NT Minister's position on this matter but supported it being brought back to the NTFJA meeting to be held in Adelaide in July for further consideration.

## 3. OTHER ISSUES

### 3.1 Decision Making Procedures under the NTFJA

The NTFJA noted the requirement for timely joint decision making on behalf of the members of the JA.

The meeting acknowledged that the transition from a single jurisdiction to a JA management approach had resulted in a number of management and licensing issues requiring consideration by the JA and that in some instances this had involved consideration of unusual circumstances.

The NTFJA agreed that in future, all matters which came within its jurisdiction needed to be properly considered by the NTFJAJA.

It was agreed that both the NT and the Commonwealth Deputies would bring this matter to the attention of their Ministers when advising of the outcome of this meeting.

The NTFJA agreed to consider the development of guidelines for the consideration of management issues (including licensing, vessel replacement and allocation) under JA fisheries.

### 3.2 Attendance at North Australian Fisheries Memorandum of Understanding (MOU) Meetings

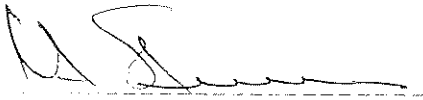
The Commonwealth Deputy noted that officers of the Australian Fisheries Management Authority will attend at all future MOU meetings.

### 3.3 Northern Prawn Fishery By-Catch

The Commonwealth Deputy advised that AFMA believed that it had met its requirements for by-catch reporting as detailed under the NPF OCS Arrangement by forwarding summary by-catch data to the NT Queensland and WA fisheries agencies.

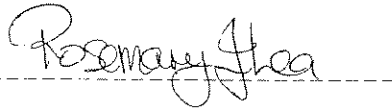
### 4. Next Meeting

Members agreed that the next meeting of the NTFJA would be held in Adelaide during a suitable break in the SCFA meeting on either the 22, 23 or 24 July 1997. The exact details of the meeting to be agreed prior to SCFA.



Mr Richard Stevens  
Deputy of the Commonwealth  
Minister for Resources & Energy

29/6/97



Mrs Rosemary Lea  
Deputy of the Northern Territory  
Minister for Primary Industry &  
Fisheries

## **ANNEX C: Freedom of Information Act Statement**

Information relating to the *Freedom of Information Act 1982* with respect to Queensland joint authority fishery is contained within the annual report issued by the Northern Territory Department of Primary Industry and Fisheries.

## ANNEX D: Management Arrangements and Landings for NTFJA Fisheries (as of 30 June 1997)

Please note that the details outlined below provide a general summary of the management arrangements only and should not be relied upon as a complete description of all legislative requirements. The Northern Territory *Fisheries Act 1988* and Regulations provide precise information about legislative arrangements implemented for the fisheries nominated

Fishery	No. of Restricted Licences	No of Unrestricted Licences	Management Regime	Sustainable Yield Estimates	Landings
Shark			Effort Controls	3900 tonnes for Northern	Black Tipped shark 500 t
Coastal	17	-	Restriction of the total number of licences issued	Australia	Sharks (other than Blacktip) 70 t
Arafura	13	-			Mackerel 249 t
GOC	9	-	2500 m of net mesh size 150 mm to 250 mm		Tuna 5 t
			Longline to 20 nautical miles		Other 14t
Demersal	Not Applicable	60	Effort Control	Red Snappers - up to 10,000 tonnes	Gold Band Snapper 2 t
			Restriction of the total number of licences issues		Red Snappers 2 t
			Vertical Lines with a maximum of 5 hooks		Other Reef Fish 1.5 t
			Droplines with 6-40 hooks		
			Transferability on purchase and amalgamation of two restricted licences		
			Must hold a Demersal Licence		
			Restrictions on the possession of sharks and mackerels		

Timor Reef	8	7	<p>Effort Control</p> <p>Restriction of the total number of licences issues</p> <p>Vertical Lines with a maximum of 5 hooks</p> <p>Droplines with 6-40 hooks</p> <p>Transferability on purchase and amalgamation of two restricted licences</p> <p>Must hold a Demersal Licence</p> <p>Restrictions on the possession of sharks and mackerels</p> <p>Effort Controls</p> <p>Access restricted to a single licence holder</p> <p>Non Transferable licence</p>	<p>Gold Band Snapper - 400-1,000 tonnes</p> <p>Gold Band Snapper 292 t</p> <p>Red Snappers 53 t</p> <p>Red Emperor 10 t</p> <p>Other Reef Fish 29 t</p>
Fish Trawl	Not Applicable	1	<p>Effort Controls</p> <p>Access restricted to a single licence holder</p> <p>Non Transferable licence</p>	<p>Refer to Demersal Fishery estimates</p> <p>Confidentiality provisions precludes release of landing details</p>