



Torres Strait Protected Zone Joint Authority Fisheries Allocation Advisory Panel formed to advise on the appropriate basis for the allocation of fishing concessions in the non-community commercial fishing sector of the Finfish Fishery

29 May 2006

Terms of Reference

The Torres Strait Protected Zone Joint Authority (PZJA) was established under the *Torres Strait Fisheries Act 1984* (the Act). It is responsible for monitoring the condition of designated fisheries within the Torres Strait Protected Zone (TSPZ) and for the formulation of policies and plans for their management. The PZJA must have regard to the rights and obligations conferred on Australia by the Torres Strait Treaty (the Treaty), in particular the protection of the traditional way of life and livelihood of the traditional inhabitants, including their traditional fishing.

The PZJA has resolved to develop statutory management plans for Torres Strait Tropical Rock Lobster (TRL), Prawn and Finfish Fisheries. These statutory management plans are being developed by PZJA Agencies for consideration by the PZJA.

The Torres Strait Finfish Fishery comprises the Reef Line Fishery and the Spanish Mackerel Fishery. Separate licence endorsements are required for commercial fishers to operate in each of these fisheries but the fisheries share a common management system (framework) referred to as the "Finfish Fishery".

The PZJA decided at their 19th meeting (27-28 April 2006) that the Finfish Fishery will move to an individual transferable effort (ITE) management system in the non-community commercial fishing sector. These new management arrangements will be implemented during the 2007 fishing season and will be embodied in the management plan for the fishery. The PZJA also decided at this meeting that the community fishing sector would be managed through a total allowable catch (TAC) that will be fished under competitive arrangements.

The PZJA has established this Independent Allocation Advisory Panel (AAP) to provide advice on the transfer of fishing concessions from one sector to another and from the current management measures to the new ITE management system in the non-community commercial fishing sector.

The need for such advice stems from the 9 November 2005 announcement of the PZJA relating to the allocation of fishing resources between the Traditional Inhabitant commercial (community) fishing sector and the non-community commercial fishing sector. After taking account of Papua New Guinea (PNG) entitlements under the Treaty, the PZJA will allocate a 50/50 share of the remaining commercial fishing concessions between the two Australian sectors. PNG is currently entitled to

approximately 25% of the Spanish Mackerel Fishery and currently have no entitlements in the Reef Line Fishery.

The movement of fishing concessions will be achieved through a voluntary open tender process.

These terms of reference are in addition to those for the Tropical Rock Lobster Fishery. Further terms of reference concerning resource allocation in the Torres Strait Prawn Fisheries may also be provided when relevant PZJA management decisions are finalised. Timeframes for the completion of written reports on ensuing terms of reference will be established at the time the terms of reference are distributed.

The terms of reference are as follows.

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The AAP is to advise the PZJA on:

1. A method for determining who in the non-community commercial fishing sector in the Torres Strait Reef Line and Spanish Mackerel Fisheries should be eligible to be granted ITE fishing concessions.
2. A method for determining the allocation of ITE fishing concessions between eligible persons in the non-community commercial fishing sector in the Torres Strait Reef Line and Spanish Mackerel Fisheries.
 - An ITE fishing concession is a right to one of a number of equal portions of effort analogous to shares in a fishery.
 - The allocation of fishing effort connected to each unit of ITE fishing concessions will be annually determined through a setting of a total allowable commercial catch (TACC) by the PZJA in accordance with the Finfish Fishery Management Plan.
 - The non-community commercial fishing sector's share of the TACC will be determined through the PZJA policy announcement of 9 November 2005 relating to the allocation of fishing resources between the community fishing sector and the non-community commercial fishing sector.
 - The Torres Strait Reef Line Fishery is a multi-species fishery, with the main target species being coral trout (*Plectropomus* spp.).
 - The Torres Strait Spanish Mackerel Fishery is a multi-species fishery with the main target species being Spanish Mackerel (*Scomberomorus commerson*).
3. Any exceptional circumstances that should be taken into account in the allocation of ITE fishing concessions to the non-community commercial fishing sector in the Torres Strait Finfish Fishery.
4. Any appropriate rules for transfers, amalgamation or separation of fishing concessions to maintain the intent of the allocation process.
5. The AAP should provide its draft advice to the Chair of the Standing Committee of the PZJA by 21 July 2006.
6. The report will then be revised by the AAP and released for a 28 day period of public consultation. The Panel will consider stakeholder submissions before finalising their advice.
7. The final report must be provided to the Australian Government Department of Agriculture Fisheries and Forestry Contact Officer by 22 September 2006, prior to the 20th PZJA meeting.

Allocation Advisory Panel Process

In undertaking these tasks, the AAP is required to:

1. Take into account information provided in PZJA Fisheries Management Paper number 2 establishing 'guidelines for the formation of Allocation Advisory Panels for the allocation of fishing concessions in Torres Strait Protected Zone Joint Authority Fisheries where fisheries management arrangements change'.
2. Consult with relevant parties and any person/s or organisations with appropriate knowledge or experience;
 - The Panel will consult directly with holders of fishing concessions, Traditional Inhabitant representatives and other stakeholders affected by the allocation decisions. This consultation shall take place at advertised meetings that will be held in appropriate locations in the Torres Strait and Cairns.
 - The Panel will meet to confer on relevant allocation issues. At such meetings the Panel may seek advice/input from relevant legal, economic, statistical or other experts or PZJA Agencies on matters relating to the required allocation(s).
3. Identify any data necessary to support the allocation decisions, whilst ensuring that data can be cost effectively collected and verified.
4. Explain and justify the recommended allocation system to the PZJA in the form of a 'written report of recommendations'.
5. Seek written submissions on its 'draft report' during a 28 day public comment period (as defined by the Panel) and then provide its final report to the PZJA, including copies of all written submissions.
6. Provide draft and final reports that will be publicly available following consideration by the PZJA.
7. Provide advice to PZJA Agency officers appearing as witnesses before tribunals or courts in any challenge to the recommended allocation system if implemented by the PZJA.
8. Maintain full records of all activities undertaken by the Panel.
9. Identify in the allocation process any exceptional circumstances that should be taken into account in the allocation of fishing concessions relevant to the terms of reference.

Factual Brief(s)

To enable the AAP to consider allocation in or across a particular fishery/s, PZJA Agencies will provide the AAP with a brief which includes, but is not limited to:

1. the PZJA Fisheries Management Paper establishing guidelines for the formation of Allocation Advisory Panels for the allocation of fishing concessions in Torres Strait Protected Zone Joint Authority Fisheries where fisheries management arrangements change;
2. any other policy papers or decisions of the PZJA relevant to the allocation(s) being considered;
3. details of the fishery/s;
4. details of existing/historical management arrangements in the fishery/s;

5. details of existing fishing concessions; and
6. details of any past commitments made (whether by press release, correspondence or other written communication).