



## **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**

March 29 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 has regard to the rights and obligations conferred on Australia by the Torres Strait 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 PZJA has decided the TRL fishery will move to an individual transferable quota (ITQ) system to be implemented for the 2007 fishing season. These arrangements will be embodied in the management plan for the fishery.

The PZJA has established this Independent Allocation Advisory Panel (AAP) to provide advice on the movement of fishing concessions from one sector to another and from input control management to the ITQ 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 is moving to a 50/50 share of Australian commercial fishing concessions between the two Australian sectors. This will be achieved through a voluntary open tender process.

The AAP should note that further terms of reference concerning resource allocation in the Torres Strait Prawn and Finfish Fisheries will 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 initial terms of reference are as follows.

## Terms of reference

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 TRL Fishery should be eligible to be granted ITQ fishing concessions.
2. A method for determining the allocation of ITQ fishing concessions between eligible persons in the non-community commercial fishing sector in the Torres Strait TRL Fishery.
  - An ITQ fishing concession is a right to one of a number of equal portions analogous to shares in a fishery
  - The value of each ITQ fishing concession depends on an annual Total Allowable Catch (TAC) to be determined by the PZJA in accordance with the TRL Management Plan.
  - The Torres Strait Tropical Rock Lobster Fishery is based on a single species, the ornate or tropical rock lobster (*Panulirus ornatus*)
3. Any exceptional circumstances that should be taken into account in the allocation of ITQ fishing concessions in the Torres Strait TRL 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 written report (prepared by the panel members) pertaining to the terms of reference to the Chair of the Standing Committee of the PZJA by 21 July 2006.
6. The report will then be revised by the panel and released for a 28 day period of public consultation. The panel will consider stakeholder submissions before finalising the report.
7. The final report must be provided prior to the 20<sup>th</sup> PZJA meeting (scheduled for October 2006.)

## Allocation Advisory Panel Process

In undertaking these tasks, the AAP is required to:

1. Take into account information provided in 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. 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 (at a place determined by the panel) to confer on relevant allocation issues. At such meetings the panel may seek advice/input from relevant legal, economic or statistical 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. The panel will seek written submissions on its 'draft report' during a 21 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. The AAP draft and final reports 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; and
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. 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. factual details of the fishery/s;
4. factual details of existing/historical management arrangements in the fishery/s;
5. factual details of existing fishing concessions; and
6. factual details of any past commitments made (whether by press release, correspondence or other written communication).