

- 5.1 Drafting Instructions
- 5.2 Details of quota monitoring system
- 5.3 Unresolved issues
- 5.4 Other issues (*no paper for this one*)

Drafting Instructions

Title of legislative instrument – Torres Strait Tropical Rock Lobster Management Plan

Background

A short summary of what the agency wishes to achieve, and why there is a need for the legislation

Legislation in the Torres Strait

The jurisdiction and management framework for commercial and traditional fisheries in the Torres Strait is governed by the provisions of the Torres Strait Treaty, ratified in 1985, between Australia and Papua New Guinea (PNG). This treaty describes an area in the Torres Strait known as the Torres Strait Protected Zone (TSPZ). The TSPZ consists of areas in which Australia and PNG have jurisdiction over certain swimming marine species and sedentary marine species.

The principal purpose in establishing the TSPZ was to acknowledge and protect the traditional way of life and livelihood of the traditional inhabitants of the area including their traditional fishing and traditional right of movement between the two countries, and for the orderly development of the commercial harvesting of fish stocks. The treaty also requires the Australian and PNG Governments to protect and preserve the marine environment and indigenous fauna and flora of the area.

In order to implement Australia's fisheries-related treaty obligations, traditional fishing and the principal commercial fisheries were placed under the jurisdiction of the new *Torres Strait Fisheries Act 1984* in February 1985.

The Act, which provides a specific framework for Torres Strait fisheries management under Commonwealth law established a Protected Zone Joint Authority (PZJA) consisting of the relevant Commonwealth and Queensland fisheries ministers and the Chairperson of the Torres Strait Regional Authority.

Description of the fishery:

The Torres Strait Tropical Rock Lobster (TRL) is the second most valuable commercial fishery in the Torres Strait and very important to many Torres Strait Traditional Inhabitants. The fishery is based on a single species, the ornate or tropical rock lobster (*Panulirus ornatus*). Lobsters are taken by hand or hand-held instruments by divers working from dinghies. Divers use either hookah equipment or free-dive.

Various types of licences are required to fish within the Torres Strait Protected Zone:

- a) Community fishing licences available to traditional inhabitants as described in the Treaty. There is currently no limit on the number of non-community licences issued. Regulations for these licence require the holder of the licence to be the full owner of the boat, to ensure only traditional inhabitants commercially fish from the boat, and to ensure that commercial fishing only takes place in the Torres Strait Protected Zone (including the 'outside but near areas').
- b) Non-community fishing licence, available to both islanders and non-islanders in order to fish commercially in the Torres Strait Protected Zone (including the outside but near areas). Under this licence, the length of the primary boat can be up to twenty metres but can only be replaced by a vessel of the same size.

As the commercial lobster catch increased during the 1980s there was concern raised about the long-term sustainability of the fishery, and managers sought data and a method to estimate sustainable yield. CSIRO and PNG National Fishing Authority (NFA) initiated fishery-independent diver surveys of the lobster population in Torres Strait in 1989 to estimate stock abundance and establish a baseline with which to compare future surveys. This data was subsequently input to fishery models to allow assessment of the long-term status of the fishery providing important information for sustainable fisheries management.

The TRL Fishery in Torres Strait is currently managed through input controls including limited numbers of licence (for non-community licences), limiting the method of taking of lobster to either hand or with the use of a hand held implement, an October-November (inclusive) ban on all commercial fishing; a December-January (inclusive) ban on the use of hookah gear; a minimum legal size; a bag limit for traditional fishing; and a prohibition on the processing or carrying of tropical rock lobster meat.

In July 2005 the Torres Strait Protected Zone Joint Authority (PZJA) made the decision to change management of the Tropical Rock Lobster (TRL) Fishery from input restrictions to a quota management system through allocation of units of fishing capacity and quota for lobster.

Need for a Management Plan

Input controls have not been effective in containing fishing effort in the TRL fishery. This is despite a latent effort process that removed some (non-active) non-community licences from the fishery. The TRL fishery has been fished very intensively and there is always the possibility of the level of effort exceeding optimal levels due to the unlimited number of community fishers that can enter the fishery. Several extra measures have been taken to restrict effort in the fishery such as 30% reduction in tenders and spring-tide hookah closures. However, these measures have not restrained effort to levels that managers believe will meet objectives of the fishery. There is also a significant problem with adjusting the level of Australian fishing effort to compensate for an increase in PNG's fishing activity provided for in Article 23 of the Treaty.

Moving to an output control management system was considered a better alternative and therefore PZJA made the decision to manage the TRL and other fisheries under a quota system. This implied that commercial fishing rights would be allocated in the fishery under a Plan of Management with a quota monitoring system to better managed the fishery.

Instructions

An explanation, in ordinary language, of what the agency wishes to have drafted

AFMA requires the assistance in drafting the TS TRL management plan in accordance to the attached instructions (Attachment A).

Related projects

If the project is the first part of a later one, or related to other instructions which the Office has already received, an explanation of the relationship will assist in coordination of the drafting

Management plans will be introduced in several other Torres Strait Fisheries including Finfish and prawn. The Torres Strait Fisheries Act had to be amended to be able to introduce management plans and output controls for these fisheries

Affected provisions and consequential amendments

Identify the provisions that will need to be amended, including any consequential amendments

Amendments to the Torres Strait Fisheries Act were made in June 2006 as part of the Fisheries Legislative Amendment Bill.

Application, savings and transitional provisions

Will any be needed?

Transitional provisions will be required. These are set out in Part X of Attachment A.

Legal opinions

Are there any opinions from the Australian Government Solicitor, the Department of other lawyers that are relevant to the project?

Legal advised was only sought within AFMA

Administrative or judicial review

The Department's view on whether review of any decision under the legislation should be provided for mention. Mention any consultations with other areas of the Attorney-General's Department on any offences or criminal law issues generally

Privacy issues

Does the proposal involve the disclosure of personal information? If so, has any advice been sought from the Information Law Branch of the Attorney-General's Department?

The proposal does not involve the disclosure of personal information.

Consultation

Has there been any consultation with other Departments or generally? Are any further consultations required?

After the PZJA 18 decision to introduce management plans and a quota system in several of the Torres Strait Fisheries, including the Tropical Rock Lobster Fishery, four TRL Working Group Meetings and three Management Advisory Committee (MAC).

The role of the TRL Working Group is to discuss management issues and to make recommendations to the MAC, which in turn makes recommendations to the PZJA Stake holders from all sectors are represented in the working group and the MAC and the specific elements of the management plan have been discuss in these group meetings

Commencement

The commencement date needs to be considered carefully to endure that enough time is available to finalise the draft and implement any related administrative procedures and for any affected groups to be sufficiently aware of the new obligations, rights or procedures.

It is expected that the first draft of the Management Plan will be out for consultation by the end of March 2008, the final draft by July for endorsement by the PZJA.

This timeline may be reviewed depending on outcomes from our consultative process.

Instructors

Name, Phone, Fax and email addresses (for each, if more than one). Also advise of any planned absences

Ana Lara-Lopez
Senior Fisheries Management Officer
Torres Strait Fisheries
Ph: (07)40691990
Fax: (07)40691277
Email: Ana.Lara_Lopez@afma.gov.au

Timetable

Indicate what the timetable for the instrument is, including whether there is any matter that may affect the timetable for the instrument (for example, are consultations on the draft requires, is the instrument to be prepared as an exposed draft?)

AFMA would ideally like a first draft of the plan by January 2008

Specific drafting instructions – TS TRL Management Plan

1 Name of Plan

Torres Strait Tropical Rock Lobster Fishery Management Plan

2 Commencement

This Management Plan commences on DATE

3 Interpretation

ACE means annual catch entitlement

Act means the Torres Strait Fisheries Act 1984.

acting for a person means acting with the consent of, and on behalf of, the person.

approved form means a form approved by the PZJA for the section in which the term is used.

area of the fishery means the area described in the Torres Strait Regulations 1985

Australian boat has the same meaning as it does in the Torres Strait Fisheries Act 1984

boat means any kind of vessel used in navigation by water, however propelled or moved, and includes:

- (a) a barge, lighter or other floating vessel; and
- (b) an air-cushion vehicle, or other similar craft, used wholly or primarily in navigation by water.

OR boat means a boat licensed to operate in the Torres Strait Tropical Rock Lobster Fishery

boat mark means distinguishing number [S 7 of the Torres Strait Regulations]

carrying has the same meaning as it does in the Torres Strait Fisheries Act 1984

commercial fishing has the same meaning as it does in the Torres Strait Fisheries Act 1984

Committee or **TSMAC** means the Torres Strait Management Advisory Committee established by the PZJA.

community fishing has the same meaning as it does in the Torres Strait Fisheries Act 1984

ecologically related species means:

- (a) any species of fish, marine mammal or marine reptile that is prey of, or preys on, prawns, scampi, bugs, scallops or squid; and
- (b) any species of animal that is, or may be, incidentally affected by methods used to fish for prawns, scampi, bugs, scallops or squid.

fish has the same meaning as it does in the Torres Strait Fisheries Act 1984

fish receiver licence means a fish receiver licence granted under section 19 of the Act.
Fisheries Levy Regulations means the Fisheries Levy (Torres Strait TRL Fishery) Regulations XX.

fishery means the Torres Strait TRL Fishery.

fishing has the same meaning as it does in the Torres Strait Fisheries Act 1984

fishing season means the period from XX

foreign boat has the same meaning as it does in the Torres Strait Fisheries Act 1984

harvest strategy are rules utilised to set catch levels for the Fishery

holder, for a licence or permit at a particular time, means the person who holds the licence or permit at that time because of a grant, lease or transfer under the Act.

hookah gear means equipment that is also known as “surface supplied breathing equipment” or “surface supplied breathing apparatus” and is equipment used for breathing underwater where the air is supplied from either a compressor or one or more compressed air cylinders on the surface of the water

interested person, for a determination, means:

- (a) a person who is able to show a continuing connection with the fishery; or
- (b) an organisation or association (whether or not incorporated) whose objects or purposes include, or whose activities largely relate to, the fishery.

[NOTE: For example, interested persons could include:

- (a) an environmental organisation with an interest in the area of the fishery; or
- (b) persons carrying out other activities in the area of the fishery.]

live weight means the weight of lobster when it is alive

lobster tails means the abdomen of a lobster

observer means a person authorised by the PZJA to carry out the functions of an observer under this Plan.

Papua New Guinea boat has the same meaning as it does in the Torres Strait Fisheries Act 1984

PNG trust unit means a PNG unit held in trust by the Australian government.

primary boat means a boat identified in a licence for the fishery as the primary commercial fishing boat for the licence. This vessel will be nominated in the register as the primary vessel for licence and must not exceed 20m in length

Protected Zone has the same meaning as it does in the Torres Strait Fisheries Act 1984

PZJA means the Protected Zone Joint Authority.

receiving means a person who buys tropical rock lobster for commercial purposes in the area of the fishery

Register means the register of licences kept under section 10 of the Act.

Regulations: Torres Strait Fisheries Regulations 1985

scientific permit means a permit granted for scientific purposes under section 12 of the Act.

tender boat means a boat, other than a primary boat identified in a licence for the fishery and nominated in the register as a tender vessel for the licence and must not exceed 6m in length

total allowable catch, TAC, for a fishing season, means the total catch that may be expended in the fishery in that season.

total allowable commercial catch, TACC, for a fishing season, means the total catch that may be expended commercially in the fishery in that season, determined by the PZJA

unit means a unit of fishing capacity

tropical rock lobster, TRL, means lobster of the species *Panulirus ornatus*
unit means a unit of fishing capacity within the meaning of subsection 15(6) of the Act.
For the purpose of this section:

4 Geographical coordinates

The origin of geographical coordinates used in this Management Plan is the Australian Geodetic Datum 1994 (AGD94).

5 Objectives of this Plan

Objective 1	To maintain the spawning stock at levels that meet or exceed the level required to produce the maximum sustainable yield
Objective 2	In accordance with the Torres Strait Treaty, to protect the traditional way of life and livelihood of traditional inhabitants, in particular in relation to their traditional fishing for Tropical Rock Lobster
Objective 3	To provide for the optimal utilisation, co-operative management with Queensland and Papua New Guinea and for catch sharing to occur with Papua New Guinea
Objective 4	To monitor interactions between the prawn and lobster fisheries;
Objective 5	To maintain appropriate controls on fishing gear allowed in the fishery so as to minimise impacts on the environment;
Objective 6	To promote economic development in the Torres Strait area emphasising on providing the framework for commercial opportunities for traditional inhabitants and ensure that these opportunities available to all stakeholders are socially and culturally appropriate for the Torres Strait and the wider Queensland and Australian community; and
Objective 7	Optimise the value of the fishery, ensure cooperative, efficient and cost effective management of the Fishery

6 Measures for achieving the objectives of this Plan, and their performance criteria

The measures by which the objectives of this Plan are to be attained, and the performance criteria against which, and time frames within which, those measures will be assessed, are as set out in the following table:

Objective 1 To maintain the spawning stock at levels that meet or exceed the level required to produce the maximum sustainable yield

Measures by which objectives are to be attained	Performance indicator	Performance measure
Setting the total allowable catch each year	Catch levels are consistent with the TAC	Annual lobster population survey (1+/2+) CPUE Fishing mortality Biomass
Managing fishing practices to ensure the sustainability of the resources of the fishery	The amount of lobster taken in a fishing year does not exceed the TAC for the year Results from research feeds into management	Fishing mortality Catch records Compliance rates
Implementing a program of research, data collection and monitoring relevant to the assessment and management of the fishery	The accuracy and timeliness of the fishery research and monitoring	
Establishing an effective program for monitoring and surveillance of the fishery to ensure compliance with the Management Plan	Effectiveness of management arrangements in delivering compliance	Compliance risk assessment

Objective 2 In accordance with the Torres Strait Treaty, to protect the traditional way of life and livelihood of traditional inhabitants, in particular in relation to their traditional fishing for Tropical Rock Lobster

Measures by which objectives are to be attained	Performance indicator	Performance measure
Ensure traditional fishing opportunities for Torres Strait traditional inhabitants of Australia and Papua New Guinea are preserved	Traditional fishing opportunities meet cultural needs	Comparison between current and past traditional fishing success
Develop research strategies to gather information on the success of traditional fishing (quantity taken and rate that this quantity is harvestable) to	Reference points for traditional fishing are identified	

explore ways to improve it	Strategies to improve traditional fishing success are develop	
Implement measures that will help improve traditional fishing	Strategies to improve traditional fishing success are adequately implemented	Level of improvement of traditional fishing success

Objective 3 To provide for the optimal utilisation, co-operative management with Queensland and Papua New Guinea and for catch sharing to occur with Papua New Guinea

Measures by which objectives are to be attained	Performance indicator	Performance measure
Facilitating the development of sound, cost-effective and sustainable fisheries management for the fishery by holding joint meetings with Queensland and PNG where information and ideas are exchanged	Degree to which the fishery is cooperatively managed	Jurisdictions satisfied with catch sharing arrangements
Using the results of research from each jurisdiction to ensure fishing is conducted in an ecologically sustainable way while preserving fishing opportunities for Torres Strait traditional inhabitants of Australia and Papua New Guinea	Data and management information are readily available Results from research in all jurisdictions feeds into management	

Objective 4 To monitor interactions between the prawn and lobster fisheries

Measures by which objectives are to be attained	Performance indicator	Performance measure
Implementing a program of research, data collection and monitoring relevant to the assessment and management of the fishery	Degree of responsible fishing practices achieved Measure spatial separation of the two fisheries	No net increase in overlap between two fisheries
Monitor TRL by-catch rate in the prawn fishery through an observer program	Level of bycatch of lobster in the prawn fishery and lobsters' life state when returned to the sea	Bycatch level

Objective 5 To maintain appropriate controls on fishing gear allowed in the fishery so as to minimise impacts on the environment

Measures by which objectives are to be attained	Performance indicator	Performance measure
Apply restrictions on the gear or method that is allowed to be used in the fishery and fishing activities identified as an unacceptable risk to the environment	Monitor impacts of fishing on reef habitats before/after fishing	There is no discernable damage to reef habitat
Education and awareness program used to promote best practice	Responsible fishing practices are maintained	Effectiveness of education and awareness
Implementing a program of research, data collection and monitoring relevant to the assessment and management of the fishery	The accuracy and timeliness of the fishery research and monitoring	
Managing fishing practices to ensure the sustainability of the resources of the fishery	Results from research feeds into management	Compliance rates

Objective 6 To promote economic development in the Torres Strait area emphasising on providing the framework for commercial opportunities for traditional inhabitants and ensure that these opportunities available to all stakeholders are socially and culturally appropriate for the Torres Strait and the wider Queensland and Australian community

Measures by which objectives are to be attained	Performance indicator	Performance measure
Develop strategy for traditional inhabitants to acquire larger share of TAC including review and decision rules	Proportion of resource allocation moves to a higher community share	Proportion of TACC held by each sector
Enhance fishing opportunities for Australian Torres Strait traditional inhabitants	Increase in employment of Traditional Inhabitants in TRL sector The Traditional Inhabitant share is fully utilised	Level of employment of traditional inhabitants in the fishery Level of fishing success for traditional inhabitants
Explore other options for business development in the fishery (i.e. lobster grow-out, aquaculture)	New traditional inhabitants business developments in the fishery	Number of new traditional inhabitants business in the fishery
Avoid arrangements that may negatively impact on community	Management obstacles identified	Number of management obstacles met by

tropical rock lobster enterprises		enterprises
-----------------------------------	--	-------------

Objective 7 Optimise the value of the fishery, ensure cooperative, efficient and cost effective management of the Fishery

Measures by which objectives are to be attained	Performance indicator	Performance measure
Developing a series of biological, economic and other data that can be used to assess the fishery	Research undertaken at a scale necessary for the confidence to set TACC at higher levels	
Reduce or eliminate illegal fishing		Level of illegal fishing
Maintain flexibility in management arrangements so market demand can be met	No impediments prevent all quota being taken Revenue from fishery maximised	Monitor proportion of the TACC sold live

7 Application of this Plan

This Plan applies to all persons who are engaged in commercial fishing (community and no-community) or scientific research in the area of the fishery.

8 Review of Plan

The PZJA must review this Plan (against the performance indicators) every 5 years.

9 Total allowable catch

9.1 Harvest Strategy

1. As soon as practicable after this Plan comes into effect, the PZJA will determine harvest strategy for tropical rock lobster that are appropriate for maintaining ecologically viable stocks of the species and an ecologically sustainable fishery, as soon as practicable
2. Each year, the PZJA will review the harvest strategy set to ensure that they remain appropriate for maintaining ecologically viable stocks of tropical rock lobster and an ecologically sustainable fishery.

9.2 Determination of total allowable catch (TAC)

1. the PZJA will determine the TAC for the fishery every year based on the harvest strategy determined.
2. Before determining the TAC, the PZJA:
 - a) will consult the Committee and consider the Committee's views; and

- b) may consult and consider the views of interested persons.
3. Before the beginning of the fishing season a **preliminary**¹ TAC will be determined to start the season.
 4. A **final**² TAC will be determined as soon as practicable during the fishing season
 5. Both the preliminary and final TAC will be expressed in terms of kilograms of live weight of lobster
 6. The following formula will be applied to convert catch to live weight in case the catch is landed as lobster tails.

Kg of live weight = 2.562 × kg of tail weight

7. The PZJA may set aside a percentage of the total allowable catch for traditional fishing. If this happens the catch available for commercial fishing will be termed Total Allowable Commercial Catch (TACC)

[Note:

¹the preliminary TAC will be determined using data from the mid-season survey (carried out during July-August) of the previous year

² the final TAC will be determined after the data collected during the pre-season survey (carried out in November) is analysed. This is likely to take 4 months and therefore the final TAC may be determined by April]

9.3 Variation of total allowable catch

1. The PZJA may vary the TAC for TRL during the fishing season
2. If the PZJA varies the TAC, the amount by which it is varied must be specified
3. The PZJA may vary the TRL TAC so that it is less than the final TAC determined under section 9.2(4) only if a threat exists in relation to TRL stocks
4. Before varying the TAC, PZJA:
 - a) must consult with any relevant management advisory committee and resource assessment group, and have regard to any view expressed in that consultation; and
 - b) may consider the views (if any) of any other interested person.
5. PZJA must, at least 28 days before a variation takes effect, give written notice of the variation to each holder of a fishing licence or/and quota units granted in relation to this fishery
6. However, if a variation of a TAC is made in an emergency:
 - (a) subsections (4) and (5) do not apply; and
 - (b) PZJA must, as soon as practicable, give written notice of the variation to each holder of a fishing licence or/and quota units granted in relation to this fishery

9.4 Allocation of units of fishing capacity

The PZJA must allocate units of fishing capacity to licence holders as follow:

1. Non-community:
 - a) Units will be allocated to a person or company holding a non-community fishing licence granted under subsection 19(2) of the Act.
 - b) Allocation of units will be via the formula recommended by the independent Allocation Advisory Panel (AAP report March 2007)

2. Community:

- a) Units of fishing capacity will be held by a government agency or representative group on behalf of all community fishing licences. These units of fishing capacity will be fished on a competitive basis.

3. Units of fishing capacity will also be set aside to meet obligations of catch sharing arrangements with Papua New Guinea.

[allocation of community fishing quota may change in time]

9.5 Value of a unit

The value of a lobster fishery unit will be determined as follow:

Value of TRL unit = TACC ÷ total number of TRL units in the fishery

[If no proportion of the TAC is removed for traditional fishing then TACC=TAC]

9.6 Maximum number of TRL Units

The PZJA must ensure that, at any one time there are a maximum of **XX** TRL units

[Tropical rock lobster is under catch sharing arrangements with Papua New Guinea. This arrangements means that 25% of the TRL units are held for PNG vessels holding a treaty endorsement to use. These catch sharing arrangements are agreed upon at bi-lateral meetings between Australia and PNG annually]

9.7 Determination of Annual Catch Entitlements (ACE) for Tropical rock lobster

The total allowable commercial catch (TACC) will be used to determine the value of the fishing units and will be expressed as an Annual Catch Entitlement (ACE)

1. An ACE of TRL for each quota holder will be determined by the following formula:

$$ACE = (TACC \div \text{total number of units in the fishery}) \times \text{number of TRL units held}$$
expressed as Kg of live weight of TRL

2. The PZJA will allocate to each quota holder a percentage of the ACE (based on the preliminary TACC) at the beginning of each fishing season for use in that fishing season.
3. A final ACE will be calculated for each quota holder as soon as practicable after the final TACC is available
4. After the final ACE is calculated the remaining ACE of each quota holder may be allocated as follow:

Remaining ACE= final ACE – ACE allocated

5. Any ACE calculated under subsections (2) and (5) of this section shall be rounded up or rounded down by the PZJA to ensure that

- a) The sum of all annual catch entitlements equals the applicable total allowable commercial catch for the stock; and
- b) Only whole kg of annual catch entitlement are generated

10 Fishing licences

10.1 Who may fish in the fishery

1. A person may engage in fishing for TRL in the area of the fishery only if the person holds, or is acting on behalf of a person who holds, a licence for fishing, carrying, or receive TRL. This may be:
 - a) a community fisher who is a Torres Strait traditional inhabitant [traditional inhabitant is defined in the treaty]
 - b) a non-community fisher
2. Under the Treaty, a certain number of PNG licensed boats may be allowed to fish in the fishery
 - a) the person is fishing from a PNG licensed boat endorsed by Australia according to the Torres Strait Treaty and holds PNG units.
[NOTE: for endorsement of PNG licensed boats, see s.20 of the Act.]

10.2 Types of licences

Types of licences as defined in section 19 of the Act.

10.3 Fishing boat licence

1. The PZJA will decide the maximum number of tender boats that can be used in any licence up to a maximum of four tender vessels per licence.
2. If the a primary boat of a non-community fishing licence has more than the maximum number of tenders before this management plan is implemented, that package of primary and tender boats will be “grandfathered”
3. The total number of non-community tenders in the fishery will be **XX**;
4. The licence must state the number of tender boats authorised, in brackets immediately after the licence designated entry

[FOR EXAMPLE A BOAT WITH DISTINGUISHING NUMBER “FHJA (3)” WILL BE THE VESSEL FHJA WHICH IS ABLE TO HAVE UP TO 3 TENDERS WORKING FROM IT].

[SHOULD “DESIGNATING SYMBOL” BE INCLUDED IN THE DEFINITIONS?].

5. A holder of a licence [community and non-community] may use the primary commercial fishing boat or any tender vessels identified in the licence to take fish in the fishery.
6. Any boat (primary or tender) mentioned in this subsection can be used to:
 - a) carry fish taken by any of the other vessels (primary or tender boats)
 - b) sell the fish to someone else who holds authority to buy the fish (i.e. a fish receiver permit);

- c) process fish mentioned in paragraph (a) or (b);

[FOR EXAMPLE A PRIMARY BOAT WITH TWO TENDER VESSELS WORKING FROM IT. THE TENDERS CAN CATCH FISH AND TRANSPORT THIS FISH TO THE MAIN BOAT WHERE IT IS PROCESSED AND VISE VERSA. TENDERS COULD ALSO BE USED TO TRANSPORT FISH FROM THE PRIMARY VESSEL TO A BUYER]

7. The licence holder must ensure the following boat mark is placed on the boat in such a way as to comply with the Section 7 of the regulations:
- a) For a primary vessel the distinguishing number followed by the maximum number of tenders the licence can use in brackets
 - b) For tender vessels the distinguishing number of the primary vessels followed by a dash and a single digit number issued by the PZJA and identified in the licence. This number will be a unique number for each tender

10.4 Processor carrier boat licences

TBA

10.5 Master fisherman's licence

TBA

10.6 Fishing without a boat licence

TBA

10.7 Fish receiver permit

TBA

10.8 Scientific or developmental research

As set out in section 12 of the Act, permits for scientific or developmental purposes may be granted for an area of the fishery

11 Grant of licences

1. The PZJA may grant licences for commercial fishing in the fishery
2. The PZJA may not grant more than **XX** licences with TRL entry to non-community fishers.
3. The PZJA may limit the number of licences to community fishers.
4. A licence will be granted for a period of one year

12 Obligations of licence holders

12.1 What fish may be taken

Fish that can be harvested for commercial purposes by vessels holding a TRL entry in their Torres Strait licence are listed in Schedule 2 of this plan

12.2 Fishing methods

- 1) The following rules apply to fishers in the TRL Fishery:
 - a. Tropical rock lobster may only be caught by hand or handheld implements listed in the relevant instrument
 - b. Hookah gear, but no other kind of equipment used for breathing underwater, may be used to take tropical rock lobster in the area of the fishery during a period specified in the relevant instrument during the fishing season.
 - c. The taking or carrying of tropical rock lobster while using, or in the possession of, hookah gear, is prohibited in the area of the Tropical Rock Lobster Fishery during the period specified in the relevant instrument
 - d. Mechanical equipment that provides underwater propulsion must not be used at any time to take tropical rock lobster
- 2) The PZJA may determine the allowable methods of fishing in the fishery

12.3 Area closures

The PZJA may determine spatial closures from time to time

13 Other obligations of licence holders

- 1) The holder of a fishing licence may engage in fishing for tropical rock lobster in the fishery only during the fishing season
- 2) It is a condition of a fishing licence that the holder must comply with:
 - a) this Management Plan;
 - b) any Regulations that apply to the fishery
 - c) any applicable provisions of the Act;
 - d) any direction made under section 19;
 - e) any condition imposed on the licence;
 - f) any direction made in relevant instrument
- 3) It is a condition of a fishing licence that the holder must:
 - a) Notify the PZJA of date place and time the boat enters or re enters the area of the fishery hours prior to leaving or re entering if the PZJA asks to do so
 - b) comply with size limits for tropical rock lobster listed in the relevant legislative instruments
 - c) carry an observer and the observer's safety and monitoring equipment on board their nominated boat if the PZJA asks to do so
 - d) give the PZJA reasonable access to biological, economic or technical information, or biological samples that are available to the holder if the PZJA asks the holder to do so

- e) carry on board the nominated boat a copy of the extract from the Register that states the name of the boat (only for boats greater than 7m)
- f) not sell, or otherwise dispose of (other than solely for transportation), fish that the holder takes except to the holder of a TS fish receiver permit
- g) comply with any spatial closures determined in the relevant instrument
- h) not retain for sale any species they are not endorsed to take under their licence
- i) not exceed the ACE of TRL in a fishing season [ie can not catch more than their ACE of TRL in any season

14 Register

1. Owners must provide details as required by the PZJA to be kept in a register under Section 10 of the Act.
2. The PZJA must:
 - (a) for each nominated boat, enter in the Register the details required by the Regulations to be shown in the Register; and
 - (b) give the licence holder an extract from the Register that:
 - i. shows the name and identification code of each primary and tender boat nominated for the licence; and
 - ii. shows any third party registration; and
 - iii. states the conditions to which the licence is subject; and
 - iv. shows the endorsement and units allocated; and
 - v. is signed by the PZJA;

15 Logbooks

The holder of a TS TRL licence operating a boat must ensure that the information required by the TRL Logbook specified in the relevant instrument is accurately and fully recorded in the logbook as prescribed on the licence. The form of the logbook may be determined from time to time by the PZJA.

16 Nomination of a boat

1. The holder of a TS TRL licence may use a boat for fishing in the fishery only if the boat is nominated for the licence
2. The holder of a TS TRL licence may apply to the PZJA in the approved form for a boat to be entered in the Register as a nominated boat for the licence
3. The length of the nominated primary and tender boats must not exceed the maximum length allowed under this plan
4. A vessel may only be nominated to one licence at any one time.

17 Vessel monitoring systems

The PZJA may direct a holder of a fishing licence to have fitted to the boat a vessel monitoring system (VMS) in a directed manner

18 Obligations about interactions with certain species and communities

- (1) The holder of a fishing licence must take all reasonable steps to ensure that the impact of fishing operations on the marine environment is kept to a minimum.
- (2) In particular, the holder must take all reasonable steps to avoid interaction with the following:
 - (a) cetaceans;
 - (b) marine species listed for section 248 of the *Environment Protection and Biodiversity Conservation Act 1999* (the **EPBC Act**);
 - (c) migratory species listed for section 209 of the EPBC Act;
 - (d) threatened ecological communities listed for section 181 of the EPBC Act;
 - (e) threatened species listed for section 178 of the EPBC Act.
- (3) If the fishing activities undertaken on the boat result in an interaction with a species or community mentioned in subsection (2), the licence holder must:
 - (a) record details of the interaction in a logbook kept for that purpose; and
 - (b) if there is an observer on the boat:
 - (i) immediately tell the observer about the interaction, and allow the observer to observe its consequences; and
 - (ii) give whatever assistance is necessary for the observer to collect the data, or make the observations, required by PZJA; and
 - (c) if the interaction results in an injury to a member of the species or community, do everything that can practicably be done to give aid to it; and
 - (d) if the interaction results in the death of a member of the species or community, discharge its carcass from the boat in a way that does not attract birds or mammals to the boat; and
 - (e) if the interaction results in the death of, or an injury to, a member of the species or community, report the interaction in accordance with the **XX** Regulations.

19 Reporting requirements

All licence holders, including holders of fish receiver permits must comply with:

- a) All conditions and instructions set in the relevant instrument related to quota monitoring system
- b) Notices and other reporting requirements set in the relevant instrument related to quota monitoring system

20 Miscellaneous

20.1 Trading of units

1. The holder a non-community TRL licence may trade units of fishing capacity allocated to their licence with a person or company holding a licence for the fishery [community or non-community]
2. The holder of a community TRL licence or a group or entity representing community licence holders [TSRA], that hold units of fishing capacity may trade

these units with a person or company holding only a community licence for the fishery.

3. A transfer entitles the transferee to use the units
4. No dealing will take affect until registered
5. No registration will take place until fee is paid

20.2 Trading of ACE

1. Where an annual catch entitlement (ACE) is allocated to the holder of a non-community licence, all or part of the entitlement may be transferred to any person or company holding a licence for the fishery granted under sections 19(2) and (4A) of the Act [community or non-community]
2. Where an ACE is allocated to an individual community fisher, group of community fishers or to community fishers as a whole, all or part of the entitlement may be transferred to any person or company holding a licence for the fishery granted under sections 19(2) or (4A) of the Act [community or non-community]
3. A trade entitles the transferee to use the ACE
4. No dealing will take affect until registered
5. No registration will take place until fee is paid

20.3 Trading of tenders

Tender vessels nominated to a licence may be traded as per the following rules:

- 1) Trading of tender vessels nominated to a non-community licence can be traded to the holder of another non-community licence.
- 2) Trading of tenders nominated to non-community licences is permanent [i.e. tenders can be purchased only]
- 3) The maximum number of tenders for non-community fishing in the TRL fishery will be XX
- 4) Community fishing tenders can only be traded to other community fishers [community tenders can not be traded to non-community fishers]
- 5) If tenders are traded, whether they are community or non-community, the number of tenders on a license should not exceed 4.

20.4 Directions not to engage in fishing

The PZJA may direct licences not to engage in fishing within the area of the TS TRL fishery during a certain period of time. (ref Sect 16(1a) and 16(2)).

20.5 Exemptions for traditional fishing

Traditional fishing is exempt from regulation under this plan.

20.6 Consultation

XX

20.7 Boat Replacement

TBA

20.8 Appeals

XX

20.9 Delegation

The PZJA may by writing delegate any of its powers or functions under this Plan to an officer of AFMA or an officer of QDPI&F.

20.10 Transitional arrangements

TBA

Schedule 1 Area of the fishery

The area of the TRL fishery is currently described in the regulations

Schedule 2 Species that may be harvested

Species of lobster that may be harvested for commercial purposes by fishers holding a TRL entry:

- i. Tropical rock lobster, *Panulirus ornatus*, [quota species for this plan]
- ii. Painted rock lobster, *Panulirus versicolor*
- iii. Long-legged spiny lobster, *Panulirus longipes femoristriga*
- iv. Pronghorn spiny lobster, *Panulirus penicillatus*
- v. Mud spiny lobster, *Panulirus polyphagus*

Quota Monitoring System in the Torres Strait TRL Fishery

General rules

- (1) It is a condition of a fishing licence:
 - (a) that the holder must not sell (or otherwise dispose of, other than solely for processing on board and transportation directly to a relevant place) fish except to the holder of a fish receiver licence granted under section 19(4b) of the Act.
 - (b) that the holder must comply with all notices and reporting requirements stated in this instrument
 - (c) that the holder must follow all the instructions specified in this instrument
 - (d) that the nominated boats cannot leave the area of the fishery with product on board unless the product has been landed first in Torres Strait and a transshipment notice has been provided, a certified weight recorded and the product is accompanied by sales or transfer documentation
 - (e) All tenders and primary boat are prohibited from fishing in more than one jurisdiction on the same fishing trip
 - (f) If the nominated boats (tenders and primary) leave the TSPZ for the purpose of fishing in a different jurisdiction no product should be on board any of the vessels (primary of tenders) when leaving the jurisdiction
 - (g) That the holder must carry the licence ID card when fishing
 - (h) That the holder present the licence ID card when selling product
 - (i) **PROVISIONS TO BE ADDED IN CASE OF LICENCE ID CARD LOSS**
 - (j) Product in storage must be at an approved place (Schdule)
 - (k) If product is stored at a fish receiver or cold store, relevant storage records must be completed.
 - (l) Storage of product is permitted only:
 - For community fishers with vessels equal or less than 7m live lobsters can be stored in registered cages only
 - For community and non-community fishers at licensed premises such as fish receivers and/or cold stores
- (2) It is a condition of a fish receiver:
 - (a) To ensure that the person selling product is a current fishing licence holder and presents a licence ID card (provisions for the person transshipping and not being able to physically present a licence – like above)
 - (b) To ensure that all relevant information is accurately and fully recorded in the Catch Disposal Record (CDR)
 - (c) Holders of fish receiver permits must counter sign CDR provided by the licence holder (or authorised representative) selling lobsters to confirm

- (d) A copy of the CDR must be sent to the relevant authority consistent with the instructions contained in the CDR
- (e) A copy of CDR must be kept by the fish receiver for 5 years
- (f) It is prohibited to buy product from licence holders if the fishery has been closed

Landing, unloading and transshipment

- 1) Specific notices must be given when landing, unloading and transshipping
- 2) Landing, unloading and transshipment must take place at approved places
- 3) Approved landing, unloading and transshipment places are listed in Schedule 1 of this instrument
- 4) If there is unloading to premises that are not a licensed processor/buyer then it is treated as a transshipment and requires appropriate transshipment documentation
- 5) If unloading of product is carried out by a tender boat due to the landing place not being accessible for the primary boat, the tender boat must remain within 1 nm of the primary boat at all times
- 6) Fishing is prohibited between the time the vessel enters the TSPZ with product from East Coast and landing
- 7) Vessels that will transport the lobsters outside the TSPZ must hold an appropriate carrier licence
- 8) TRL cannot leave the area of the fishery by sea or air unless the product has been landed first in Torres Strait and a transshipment notice has been provided, a certified weight recorded and the product is accompanied by sales or transfer documentation
- 9) Community fishing licence holders with vessels of 7m in length or smaller are exempt from providing prior and unloading notices:
- 10) Community fishing licence holders with vessels of 7m in length or smaller must comply with:
 - all transshipment requirements
 - all other landing and unloading conditions

Notices that will be required

- 1. All notices should be given by telephone through the Automated Interactive Voice Response (AIVR) system.
- 2. Failing to carry adequate communication equipment, having trouble phoning from an area of poor phone coverage or having one of the means of communication equipment on board break down (eg your phone if you also have a radio) will not be valid reasons for landing product without a notice.

Prior Notice

1. A prior notice will be required before coming into land or before unloading only if there are lobsters or lobster products on board the boat. Notice must be given before entering a defined port area [defined port areas in schedule?]
2. When prior notice is given landing should take place in the area specified so a Fisheries Officer is able to inspect the catch at their discretion.
3. If landing is to occur in a place that is not a defined port area, prior notices must be given 3 hours **before** the primary boat comes within one nautical mile of the landing place
4. Prior notice must be given regardless of unloading taking place or not if there are lobsters on board the vessel [For example, a prior notice must be given if landing takes place to refuel, to shelter from bad weather or because a crewmember is sick]
5. Prior notice will not be necessary if there is no unloading of catch landing takes place on an island which does not have an island freezer or a landing strip [List of islands in schedule?]
6. If a prior notice is given to inform authorities that unloading will take place when landing, then no lobster should be taken under that licence again from coming within **1** nm of the landing place until giving an unloaded fish notice.
7. Information regarding the unloading place and time in the Prior Notice must be given if a fisheries inspector requests such information
8. Time between prior notice and landing must be as follows:
 - Three hours minimum if landing in a defined port area; or
 - 24 hours minimum if landing is not in a defined port area
9. The following information must be provided when giving a prior notice:
 - primary boat licence number;
 - PIN
 - landing time and place;
 - purpose of landing (unloading and not unloading only);
 - unloading time and place [if landing purpose is unloading] (in whole hours only)
 - catch details, including estimated catch weight;
10. Amending of prior notice will be permitted only if the amended prior notice is given before:
 - coming within **1 nm**; and
 - before the relevant notification period expires (3 or 24 hr from time of notification)
11. Details that could be amended are:
 - catch details
 - landing time and place

Unnotifiable Notice

1. In case of a mechanical failure that required the immediate removal of lobsters or lobster products from the vessel to maintain the product in the state required for its sale and or export and where it is not possible to comply with the time frames set to give a prior notice [for example failure of refrigeration plant] an unnotifiable notice must be given
2. Unnotifiable landing notice must be given before unloading

3. The following information must be provided when giving an unnotifiable:
 - primary boat licence number;
 - PIN
 - landing time and place;
 - unloading time and place (in whole hours only)
 - catch details, including estimated catch weight;
 - reason for unnotifiable notice
4. Unloading must not take place before the authorised unloading time
5. The vessel must not be moved to a place more than **XX** m or not visible to a person at the landing place mentioned in the unnotifiable notice

Unloaded Fish Notice

1. An Unloaded Fish Notice will be required as soon as practicable after unloading
2. The weight of lobsters reported under the unloaded fish notice will be converted by PZJA to whole weight, if necessary, to calculate how much of the licence holder's quota has been used
3. If prior notice is given to report unloading, all catch must be unloaded. No amount of lobster is allowed to remain in the vessel after unloading if fishing is intended afterwards.
4. Catch must be weighed and an unloaded fish notice must be given as soon as practicable after the lobsters have been unloaded. Lobsters shall not be moved more than **XX** from the vessel before being weighed and the unload fish notice given.
5. It is not necessary for unloading to take place at the same landing place but must take place within the same defined port area.
6. If the landing place is not in a defined port area, unloading should take place within **XX** of the landing place
7. If landing takes place before the reported time in the prior notice, the boat with the product must remain at the landing place until the reported landing time and unloading should not take place before that time so a Fisheries Inspector has the opportunity to arrive
8. Unloading must be at the time and place reported to the inspector and the prior notice [This provision is so the inspector does not have to wait around indefinitely for unloading to occur and they can inspect the lobsters against the details provided in the Prior Notice]
9. Lobsters must be weighed on a certified or verified scale before providing the unload fish notice
10. The unloaded fish notice must be provided before the lobsters leave the **licence holder's** possession.
11. A separate weight for each processed form (tails or live weight) must be provided
12. The following information must be provided when giving an unload fish notice:
 - primary boat licence number;
 - PIN;
 - unloading time and place;
 - Prior Notice receipt number
 - catch details including catch weight

Transshipment Notice

1. A transshipment notice will be required when lobsters are transferred after landing to another boat, aircraft, or vehicle that will be taking the lobsters outside the Protected Zone or to a different area than the landing place.
2. Transfer of lobsters to another boat, aircraft or vehicle must take place after landing and giving a prior notice
3. A transshipment notice must be given as soon as possible before the lobsters are transferred to the transport boat, aircraft for vehicle
4. The boat or aircraft or land vehicle to which lobsters are to be transferred must have a **carrier licence**.
5. If the transshipment by air, sea or land will result in the lobsters leaving the Torres Strait Protected Zone or the adjacent coastal area of Australia, lobsters must be weighed on a certified or verified scale before giving the transshipment notice and before the transfer
6. A separate **weight** to the nearest **XX** for each form of lobster product (tails or live weight) must be provided
7. Information of transshipment and destination place and time in the transshipment notice must be given if a fisheries inspector requests the information
8. The following information must be provided when giving an transshipment notice:
 - primary boat licence number;
 - PIN
 - landing time and place;
 - Prior Notice receipt number
 - catch weight of each product type being transhipped
 - details of carrier to which lobsters are going to be transferred
 - address to which lobsters will be transported to
 - estimated time and place of arrival of carrier vessel

Other reporting requirements

Catch Disposal Records (CDR)

The CDR will form a written record of the information given in notices. The information given in the CDR will be cross-checked by PZJA agencies against information in the Prior Notice or Unloaded Fish Notice.

1. Licence holders operating boats greater than 7 metres in length must ensure that relevant information is accurately and fully recorded in the Catch disposal record
2. Confirmation by the fish receiver of the weights of lobsters they purchased must be given by counter signing the CDR
3. The CDR must remain in the vicinity of the lobsters once they have been taken from the vessel and until it is sold to a commercial buyer so the catch can be inspected by a fisheries officer
4. The licence holder must ensure that a separate CDR is completed for each consignment of lobsters sold to a buyer [For example, if lobsters that are unloaded are sold to two different buyers the licence holder will need to ensure that two separate CDRs are completed (one for each separate consignment of lobsters)]
5. Instructions to complete the CDR must be followed and all information required must be recorded.

6. A copy of the CDR must be sent to the PZJA within 2 business days after lobsters leave the licence holder's possession
7. The relevant copies of each CDR must be kept by the licence holder and fish receiver for 5 years from the date of recording

Tranship and Storage Records (TSR)

Transfer and storage documentation will form a written record of the information given in transshipment notice or when the fisher (community or non-community) is storing lobster. This record is to allow fisheries officers to trace the lobsters back to their original point of entry into the quota reporting system and impede any ability for black market lobsters.

1. All licence holders must ensure that relevant information is accurately and fully recorded in the TSR when:
 - a. transshipping lobsters outside the Protected Zone
 - b. lobsters are put into storage for an extended period at a fish receiver or cold store premises
2. When transshipping lobsters, a copy of the TSR must be with the transhipped lobsters at all times
3. When storing lobsters a copy of the TSR must be at the premises where lobsters are stored
4. Instructions to complete TSR must be followed and all information required must be recorded
5. A copy of the TSR must be sent to the PZJA within X days after lobsters leave the licence holder's possession
6. A copy of each transfer record must be kept by the licence holder for 5 years from the date of recording

<u>TROPICAL ROCK LOBSTER WORKING GROUP</u>	Meeting 27-28 November 2007
Unresolved issues	<i>Agenda Item No. 2.3 FOR DISCUSSION</i>

PURPOSE

To discuss and seek a recommendation from the Working Group on:

- a) Master Fisherman Licences (MFL) and Boat Replacement Policies
- b) Season Opening for the TRL fishery
- c) Landing and unloading places for TVH operators

BACKGROUND

The TRL WG has yet to make recommendations on current Master Fisherman License and Boat Replacement policies. Opposing views have been expressed by both sectors on these policies and the decision to recommend an option and progress the management plan is pending on the outcomes of the tender process. In addition, recommendations from the previous TRLWG on May 2007 such as the season opening and landing places were overturned at the TSFMAC meeting on July 2007. This meeting is the last opportunity for the working group to make a recommendation on these issues before the PZJA makes a decision.

DISCUSSION

The options available and the risks involve for each of the issues remaining unresolved are in Attachment 2.3)