



## TORRES STRAIT PRAWN FISHERY MANAGEMENT PLAN

### Frequently Asked Questions

#### Acronyms and Terminology

the Plan	<i>Torres Strait Prawn Fishery Management Plan 2009</i>
the Act	<i>Torres Strait Fisheries Act 1984</i>
UFC	Unit of Fishing Capacity
FMI <sup>1</sup>	Fisheries Management Instrument
FRL	Fish Receiver Licence
TSPF	Torres Strait Prawn Fishery
TAE	Total Allowable Effort
AFMA	Australian Fisheries Management Authority
PZJA	Torres Strait Protected Zone Joint Authority
TSPMAC	Torres Strait Prawn Management Advisory Committee

<sup>1</sup> Fisheries Management Notices are now being named Fisheries Management Instruments; however the two instruments have the same effect. References within this document will be made to FMI's.

#### ***1. Are licences granted under the Plan and is the continuity of my existing licence affected by the Plan?***

No, the Plan does not grant licences. Rather, the Plan expressly recognises that the powers to grant and renew licences are conferred by the Act.

Section 6.4(1) of the Plan ensures that when the Plan commences, if you already hold a licence this licence will remain in force from the commencement date of the plan until the next 25 February. Before or after this date (once the licence expires), you apply for “renewal” of this licence, in accordance with section 24 of the Act. The history of your licence will not change.

If you do not hold a licence, you can seek the granting of a licence through section 19 of the Act, however there will remain a limit of 61 TSPF boat licences in total for the fishery.

#### ***2. Are decisions made by the PZJA “law” if they are not enacted by legislation?***

PZJA decisions are not ‘law’ in the sense that legislation such as the Act is ‘law’ but they are nevertheless legally binding.

**3. *What is the relationship between the existing legislation and the Plan, i.e. will the Torres Strait Fisheries Act 1984 and other legislation still exist when the Plan comes into effect?***

Yes, all legislation currently in force will continue to exist both outside and under the Plan once it comes into effect, unless it is explicitly amended, replaced or revoked by other legislation.

When the Plan is operational, the major legislation and other legal instruments for the TSPF will include but not be limited to:

- a) The Act, which establishes the PZJA to manage the Torres Strait Fisheries on behalf of the Commonwealth and Queensland and in accordance with the Torres Strait Treaty with Papua New Guinea.
- b) The Plan itself, which is a formal management plan determined by the PZJA by legislative instrument under sections 15A and 35(1)(a) of the Act setting out the management arrangements specific to the TSPF.
- c) The *Torres Strait Fisheries Regulations 1985*, which are made under section 60 of the Act and prescribe matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed.
- d) FMI's, which are made by the PZJA under section 16 of the Act to give effect to the Plan.
- e) Other instruments, such as the determination by the PZJA of a TAE for the TSPF at least every 3 years based on reference points determined by the PZJA, changing the TAE after the start of the season by determination, and determining a total allowable catch for a particular by-product species for a season.
- f) The Torres Strait Treaty between Australia and Papua New Guinea, which concerns sovereignty and maritime boundaries in the area between the two countries including the area known as the Torres Strait, and related matters, as set out in the Schedule 1 to the Act.
- g) The *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998*.

**4. *Will the 34 minimum day holding exist under the plan?***

Yes, the minimum day holding is a policy decision which was introduced into the TSPF in 2001. The minimum day holding of 34 will remain as a policy decision on implementation of the management plan. It is not provided for within the management plan as this would inhibit any possible changes to the minimum day holding which would be required as a result of any changes to the TAE for the fishery (up or down).

**5. *How will the TAE for the fishery be calculated under the Plan?***

The TAE must be set at least every three years under section 2.5 of the Plan and consultation must occur with the TSPMAC before a TAE is set. Rules used to set the TAE will be developed (reference points) under a Harvest Strategy and must be reviewed at least every two years.

**6. *Who will be required to hold a fish receiver licence once the Plan is implemented?***

The intention of the requirement for a TSPF boat licence holder to sell their prawn or by-product to a licensed fish receiver is to increase the level of catch validation. It does this by requiring persons who receive product commercially caught in the Torres Strait Protected Zone or the area outside but near to the zone to hold a fish receiver licence. This will complement the quota monitoring systems currently being developed as part of the prawn, tropical rock lobster and finfish management plans. Under the Plan, a TSPF boat licence holder can sell to a licensed fish receiver or a TSPF TPC licence holder. A TSPF TPC licence holder has to sell to a licensed fish receiver.

PZJA agencies are aware of the issues associated with the wording currently used in the Act and are currently working on an amendment to uphold the original intention of the fish receiver's licence, i.e. applicable only to initial receivers of product in the supply chain.

The implementation of fish receiver licences will occur when amendments to the Act have been completed.

**7. *Will PNG days be available under the Plan?***

The Plan provides for PNG days to be temporarily transferred to TSPF boat licence holders as per the current management arrangements for the fishery via an appropriate allocation process. However a decision as to whether days will be available to TSPF boat licence holders is a two step process:

- 1) Initially the PNG days have to be made available to Australia, which is confirmed at the annual bilateral meeting.
- 2) Secondly a decision needs then to be made by the PZJA as to whether these days will be made available to TSPF licence holders in a given season will be determined through annual bilateral meetings with PNG.

**8. *Is there a minimum timeframe before the start of a fishing season in which the PZJA has to set the TAE?***

No, there is not a minimum timeframe specified under the Plan, however it is the PZJA's intention to set the TAE as early before the commencement of a season as possible. The PZJA also proposes to put a policy in place specifying timeframes for setting the TAE for the fishery.

**9. *Why is the term "day" not defined in the Plan?***

Defining the term is not required. At times where a "day" differs from a 24 hour period, it is defined within a FMI (or FMN) such as FMN 72 which refers to a time

period between 1800 hours local time on one day and 0600 hours local time on the next day.

**10. What is the unitisation system under the plan and how will access rights be issued?**

Under the Plan, the TSPF will be divided into 9,200 units of fishing capacity (UFC) and UFCs will be issued to holders of a TSPF boat licence. These UFCs will be valid for the life of the Plan and one UFC will be issued for each fishing day held by a licence holder immediately before the commencement of the Plan (allocations will not include temporarily allocated fishing days including PNG days). For example;

230 fishing days = 230 UFCs under the Plan.

Each season, these units of fishing capacity will be transferred into an annual use entitlement in the form of fishing days. For example;

use entitlement  
= UFCs held/9,200 x TAE

**11. What benefit will a unitisation system provide?**

A unitisation system will provide a long term ongoing access right as UFCs are granted and are in existence for the life of the Plan. This provides licence holders certainty that they will have access to a given percentage of the fishery each season. For example if you hold 230 units, you will have access to 2.5% of the TAE each season for the duration of the Plan at the time of grant.

**12. Will unitisation of the fishery affect my collateral with the bank?**

From AFMA's experience with other quota management fisheries, lenders have a good understanding of the value of a quota or effort unit (UFC under the Plan). It is important to seek independent advice in relation to the value of UFC's as collateral with the bank. The PZJA intends to provide banks with information regarding UFCs on the introduction of the Plan to help clarify any questions, including information on the bankability of UFCs.

**13. Can I lease unused fishing days for a fishing season under the Plan?**

The Plan provides for TSPF licence holders to temporarily transfer unused UFCs to another holder of a TSPF boat licence by applying to the PZJA to register a transfer of a specific number of UFCs. These units can only be used by the transferee for the season in which they are transferred. Any temporarily transferred units cannot be transferred on by the transferee.

The system developed by the PZJA will automatically transfer any temporarily transferred units back to the transferee before the commencement of the following season.

If a licence holder wishes to temporarily transfer a given number of fishing days, it will be the transferor and transferee's obligation to determine the equivalent number of UFCs.

***14. What rights of review do I have regarding decisions made under the Plan?***

The Plan provides for the PZJA to reconsider the following decisions at the request of a person affected by the decision.

- a) Refusing to register a transfer or temporary transfer
- b) Temporary transfers of PNG units to a TSPF boat licence holder
- c) Nominating a boat
- d) Allocation of units of fishing capacity

A person affected by a decision may in writing request the PZJA to reconsider the decision. The person must make the request within 28 days of the date of the decision. The PZJA must reconsider the decision within 2 months of receiving the request for review, and must:

- a) confirm the decision; or
- b) revoke the decision and make another decision in its place.