

Class Notification under the Commonwealth *Native Title Act 1993*

Proposed licence condition variation to give effect to any application to transfer a part of an individual catch share between Transferable Vessel Holder licenced operators in the Torres Strait Tropical Rock Lobster Fishery

Date of Issue: 18 July 2019

SECTION OF NTA	Section 24HA(2) of the Commonwealth <i>Native Title Act 1993</i>
DEPARTMENT/AGENCY	Australian Fisheries Management Authority (AFMA) on behalf of the Torres Strait Protected Zone Joint Authority (PZJA)
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REFERENCE NO.	Proposed licence condition variation to give effect to any application to transfer a part of an individual catch share between Transferable Vessel Holder (TVH) licenced operators in the Torres Strait Tropical Rock Lobster (TRL) Fishery – NT2019-07

The Protected Zone Joint Authority intends to do the following act:

TYPE OF APPROVAL	Licence condition variation under section 22 of the Commonwealth <i>Torres Strait Fisheries Act 1984</i> (the Act)
NUMBER OF APPROVALS	Licence condition variation for TRL TVH licences
UNDER WHAT ACT	Commonwealth <i>Torres Strait Fisheries Act 1984</i>

The approvals, if granted, will permit the following activity to happen:

NATURE OF ACTIVITY	<p>The proposed management action would, under section 22 of the Act, vary interim licence conditions relating to individual catch shares on TRL TVH licences, to give effect to any application to transfer any unfished part of an individual catch share between TVH licences. AFMA has received one such application to date, and may receive further applications prior to the end of the 2018-19 fishing season (which ends on 30 September 2019).</p> <p>The interim licence conditions that are the subject of this notification, limit the amount of TRL a TVH licence holder may take during the season. The amount of TRL that may be taken by all TRL TVH licence holders is consistent with the agreed relative interim sectoral catch shares between the Traditional Inhabitant Boat (TIB) and TVH sectors (66.17 per cent and 33.83 per cent of the Australian total allowable catch (TAC)), respectively).</p> <p>The proposed management action <u>will not</u> change the agreed relative interim sectoral catch shares between the Traditional Inhabitant Boat (TIB) and TVH sectors. It will only change the individually apportioned catch shares on TRL TVH licences. For example, if operator A wishes to transfer 1,000 kg of their individual catch share to operator B, the share detailed in operator A's interim licence conditions would be reduced by 1,000 kg and the share detailed in operator's B interim licence conditions would be increased by 1,000 kg – this will not change</p>
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	<p>the overall interim sectoral catch share available to the TVH sector (33.83 per cent of the Australian TAC).</p> <p>Further information on the proposed management action is provided in Attachment B.</p>
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The above activity will be located within:

LOCATION OF ACTIVITY	The TVH licences that are the subject of this notification authorise fishing for TRL within the TRL Fishery. The extent of the TRL Fishery is described in Item 9, Schedule 2 to the <i>Torres Strait Fisheries Regulations 1985</i> (the Regulations). The Regulations can be accessed online at: https://www.legislation.gov.au/Details/F2016C00633
MAPS/PLANS	Attachment C shows the area of the TRL Fishery, as described in Item 9, Schedule 2 to the Regulations.
NAME OF REGISTERED NATIVE TITLE CLAIMANT GROUP/S OR NAME OF REGISTERED NATIVE TITLE BODY CORPORATE	Cape York Land Council Aboriginal Corporation Carpentaria Land Council Aboriginal Corporation Kaurareg People #1 Kaurareg People #2 Kaurareg Native Title (Aboriginal) Corporation RNTBC Ipima Ikaya Aboriginal Corporation RNTBC Malu Lamar (Torres Strait Islander) Corporation RNTBC The applicant for the Torres Strait Sea Claim (Part B)
NAME OF NATIVE TITLE REPRESENTATIVE BODY	Torres Strait Regional Authority

If approved, after consideration of all comments, the proposed management action will be implemented for the following period of time:

DURATION OF APPROVAL	The proposed management action would apply during the 2018-19 fishing season of the TRL Fishery, which runs from 1 December 2018 until 30 September 2019.
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You are invited to comment upon the class of proposed future act outlined above by close of business 16 August 2019. Comments need to be received at AFMA by this time. If you would like to extend the response period, please contact AFMA by 16 August 2019.

Any comments must be **in writing** to:

By mail addressed to:
C/o Steve Hall
Australian Fisheries Management Authority
PZJA Secretariat
PO Box 7051
Canberra Business Centre
CANBERRA ACT 2610
Or by email to: fisheriesTI@afma.gov.au

Background Information

What will the proposed management action involve?

1. The proposed management action would, under section 22 of the *Torres Strait Fisheries Act 1984* (the Act), vary interim licence conditions relating to individual catch shares on Torres Strait Tropical Rock Lobster (TRL) Fishery Transferable Vessel Holder (TVH) licences, to give effect to any application to transfer any unfished part of an individual catch share between TVH licences. The Australian Fisheries Management Authority (AFMA) has received one such application to date, and may receive further applications prior to the end of the 2018-19 fishing season, which runs from 1 December 2018 until 30 September 2019.
2. The interim licence conditions that are the subject of this notification restrict the amount of TRL each TVH licence holder is able to take during the 2018-19 fishing season. The amount of TRL that may be taken by all TRL TVH licence holders is consistent with the agreed relative interim sectoral catch shares between the Traditional Inhabitant Boat (TIB) and TVH sectors.
3. The relative interim sectoral catch shares imposed for the 2018-19 fishing season are 66.17 per cent and 33.83 per cent of the Australian total allowable catch (TAC) for the TIB and TVH sectors, respectively. Each share is managed as follows:
 - a. TIB interim sectoral catch share – a competitive TAC under the *Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018* (the Instrument) and is exclusively available to all TIB licence holders – being exclusively traditional inhabitants.
 - b. TVH interim sectoral catch share - individually apportioned to TVH licence holders through interim licence conditions – these conditions are the subject of this notification. These arrangements follow a suggestion from the Protected Zone Joint Authority (PZJA) Tropical Rock Lobster Working Group (TRLWG) and was agreed by the PZJA on 26 November 2018. This was the subject of native title notification NT2018-13 issued on 14 November 2018.
4. The proposed management action will not change the agreed relative interim sectoral catch shares between the TIB and TVH sectors. It will only change the individual catch shares on TRL TVH licences. For example, if operator A wishes to transfer 1,000 kg of their individual catch share to operator B, the share detailed in operator A's interim licence conditions would be reduced by 1,000 kg and the share detailed in operator B's interim licence conditions would be increased by 1,000 kg – this will not change the relative interim sectoral catch share available to the TIB and TVH sectors.
5. Any part of an individual catch share, that is the subject of a transfer application, must be unused (i.e. unfished).

Why is this management action being proposed?

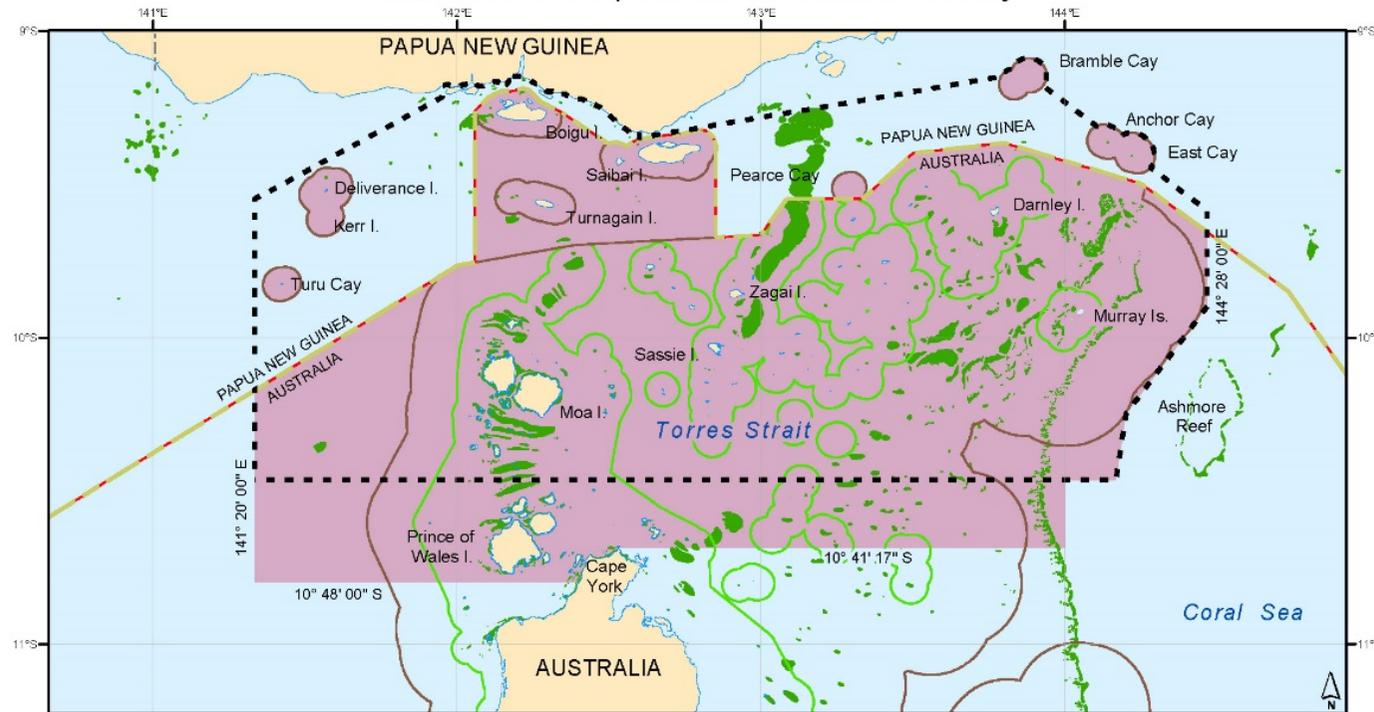
6. On 26 November 2018, having considered outcomes of consultation, the PZJA decided to determine the *Torres Strait Fisheries (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2018* (the Management Plan) and to amend the Instrument. The Management Plan and amendments to the Instrument came into force for the 2018-19 fishing season starting on 1 December 2018.
7. The amendments to the Instrument were made to implement sectoral catch shares for the TIB and TVH sectors on an interim basis (initially for the 2018-19 fishing season) while the formal quota allocation process under the Management Plan is undertaken. These shares are:
 - a. TIB sector - 66.17 per cent of the Australian TAC managed through a competitive TAC under the Instrument; and
 - b. TVH sector - 33.83 per cent of the Australian TAC managed through individual catch allocations imposed through TVH licence conditions (based on the 2007 preliminary allocation notices).

8. Agreed arrangements concerning the administration of the interim sectoral catch shares, included provision for the:
 - a. permanent transfer of TRL TVH licences, and their associated individual catch shares, to the Torres Strait Regional Authority (TSRA) during the 2018-19 fishing season (i.e. the TSRA has purchased the licences). This is to be enabled through section 4A of the Instrument. The TSRA currently holds a number of TRL TVH licences in trust on behalf of the TIB sector; and,
 - b. transfer of individual catch shares, in part or full, between TRL TVH licence holders during the 2018-19 fishing season. This is to be enabled through an amendment to the interim licence conditions on the transferor and transferee's TRL TVH licences under section 22 of the Act.
9. The proposed management action would give effect to any applications received with respect to transferring individual catch shares, in part or full, between TRL TVH licence holders during the 2018-19 fishing season. It will not change the agreed relative interim sectoral catch shares between the TIB and TVH sectors.

How will the proposed management action benefit Traditional inhabitants?

10. The proposed management action is anticipated by both TIB and TVH licence holders. On 28 November 2018, AFMA advised all licence holders of the PZJA decision to implement interim sectoral catch shares, including provision for the transfer of individual catch shares, in part or full, between TRL TVH licence holders during the 2018-19 fishing season. This advice was reiterated in letters dated 18 March 2019 and 14 June 2019.
11. The proposed management action will not affect the interim sectoral catch share for the TIB sector.
12. The TRL Fishery is the most valuable fishery in the Torres Strait worth approximately \$12.9 million in 2016-17. Further, it has the highest participation rate of Traditional Inhabitants for the Torres Strait commercial fisheries.

Torres Strait Fisheries Area of the Tropical Rock Lobster Fishery



- Coastal Waters limit (3nm)
- Exclusive Economic Zone limit (200nm)
- Fisheries Jurisdiction line
- Protected Zone Boundary
- Territorial Sea limit (12nm)
- Low tide elevations and reefs
- Torres Strait Fisheries**
- Tropical Rock Lobster Fishery



Produced by Geoscience Australia
for the Australian Fisheries Management Authority, August 2006
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Geographic
Datum: WGS84

NOTES:

1. The area of the Fishery is sourced from the Torres Strait Fisheries Regulations 1985
2. Within this fishery, arrangements exist between the Commonwealth and QLD, whereby the Coastal Waters of that State are deemed part of the AFZ.
3. The Fisheries Jurisdiction Line and Protected Zone shown on this map are established under the Treaty between Australia and the Independent State of Papua New Guinea. This Treaty entered into force on 15 February 1985
4. The maritime zone boundaries shown on this map are sourced from the 'Australian Maritime Boundaries (AMB) v2.0'

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