



Australian Government
Australian Fisheries Management Authority

Guide to the *Torres Strait Fisheries (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2018*

This document provides a plain English explanation of the *Torres Strait Fisheries (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2018* (the TRL quota management plan). The Explanatory Statement for the TRL quota management plan provides a section by section index explanation of the quota plan and is provided online at www.pzja.gov.au.

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OVERVIEW

The *Torres Strait Fisheries (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2018* (the TRL quota management plan) will introduce a quota management system. Quota management aims to protect the sustainability of the TRL Fishery by limiting the amount of catch that can be taken by a licence holder or sector; it can improve operational flexibility resulting in fishers receiving more money for each lobster landed, increasing their business profits; and it provides secure fishing access which supports investment and encourages fishers to protect the resource in the long-term.

Under the quota management system implemented by the TRL Management Plan:

- a total allowable catch (TAC) will be determined each fishing season,
- the TIB sector as a whole and individual TVH fishers will hold separate shares of the TAC,
- when the TIB sector or an individual TVH fisher has taken their portion of the TAC, fishing must stop for the remainder of the season,
- individual quota units (which convert to kilograms of TRL) will be tradable (sell, lease or buy).

The TSRA will hold quota on behalf of traditional inhabitants with this arrangement to be reviewed within two years. TSRA can lease the quota but cannot sell the quota.

Traditional inhabitants will continue to have open access to the fishery whilst the PZJA's limited entry policy for TVH licences (the PZJA policy of not granting any new TVH licences) will remain.

The proposed quota management system will provide a tool in which Torres Strait Islander and Aboriginal Traditional Owners can pursue their aspiration for 100 per cent ownership of Torres Strait commercial fisheries.

The fishery will continue to have output controls such as minimum size limits and bag limits for recreational fishing as well as a range of input controls that control how you must fish. The input controls in place in the fishery include requirements to hold a licence, tender number restrictions, moon-tide hookah closures, fishery closure 1 October to 30 November, hookah closure 1 December to 31 January, fishing gear restrictions, prohibition on carrying meat removed from lobster, prohibition on carrying dive equipment at night and boat length restrictions and replacement policy. These arrangements will be periodically reviewed once the plan commences.

WHAT IS IT?

What is a management plan?

A management plan is a legislative instrument determined under the *Torres Strait Fisheries Act 1984* (the Act). The Act sets out what may be included in a management plan.

What is the TRL quota management plan used for?

The TRL quota management plan is used to create a quota management system to manage the fishery sustainably. Having a management plan also provides stability in the management of a fishery, which helps people make business decisions.

What is a quota management system?

A quota management system provides fishers and/or entities that represent groups of fishers, with a percentage share of the TAC. The TAC is the maximum amount of catch that can be sustainably taken in a fishing season as determined through monitoring and assessment of the stock each year.

The TRL quota management plan provides for the granting of quota units to eligible fishers and the TSRA (the TSRA will initially hold for the exclusive benefit of the Traditional Inhabitant sector, but this is subject to review within 2 years). The total number of quota units in the fishery is fixed; it does not change from fishing season to fishing season. However the amount of catch you may take against each quota unit will change as the TAC changes. For example if the TAC increases then you may take more catch for each quota unit you hold or have access to, but your percentage share remains the same (Figure 1).

An important feature of the quota management system is that quota units may be traded. That is, either leased within a particular fishing season or permanently bought or sold.

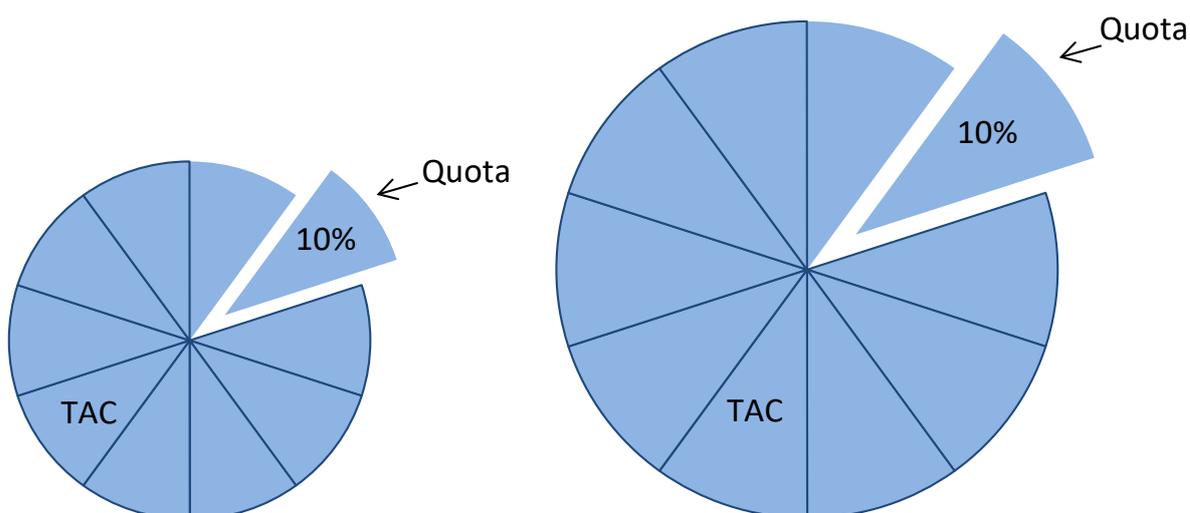


Figure 1. If the TAC gets bigger or smaller, the weight of catch of each person's share also changes, but your proportion remains the same. The figure on the left represents a smaller TAC than the figure on the right.

WHO WILL GET QUOTA and WHEN?

How many quota units will there be?

The TRL quota management plan will create 1 000 000 quota units. This large number of units ensures that quota units will be relatively small in terms of the weight of TRL and to ensure adequate trading flexibility. For example, if the TAC is 500 tonne, each quota unit will equal 0.5kg. There are enough quota units to allow the trading of either small or large amounts of quota.

When will quota units be granted?

Quota units will be granted by the Commonwealth Minister around 10 months from the commencement of the plan. It may take longer if there are legal appeals.

How many quota units will be available for the Traditional Inhabitant (TIB) sector?

The TSRA will be allocated 562,000 quota units to be held for the benefit of the traditional inhabitant sector. Additional quota units will also be allocated to the TSRA by virtue of the TVH licences it holds. All of these quota units will be available for fishing by the TIB sector. After two years the PZJA must review this arrangement and consider allocating the quota units to another entity/ies that represents traditional inhabitants or to individual traditional inhabitants or a combination of the options.

How many quota units will the TIB and TVH sectors get?

The TIB sector will be granted 56.2 per cent of all quota units in the fishery (or 562 000 quota units) and the TVH sector will be granted 43.8 per cent (or 438 000 quota units). The TSRA own three TVH licences and will receive an allocation of quota units.

How will quota be allocated to the TVH sector?

In 2007, after consulting with stakeholders, an Independent Allocation Advisory Panel (AAP) recommended a formula for allocating quota units to individual TVH fishers. The PZJA agreed to the formula which is implemented in the TRL quota management plan.

The formula allocates quota units to TVH fishers on the following basis:

1. 20 per cent of TVH sector quota units (87 600 quota units) are allocated based on the number of tender boat licences held; and
2. 80 per cent of TVH sector quota units (350 400 quota units) are allocated based on verified catch history. Catch history is each primary boat licence's highest average annual catch for three years over the five year period 1997-2001.

The TRL quota management plan sets out a process for granting quota units to persons who hold TVH licences. This is a three stage process.

Firstly, the Commonwealth Minister will provide a notice to persons who hold a TVH primary boat licence of their provisional catch history. A person may object to the catch history in the notice. In doing so they must provide written evidence to support any claims.

Secondly, the Minister must make a provisional allocation decision taking into account any objections. A person may apply to the Administrative Appeals Tribunal (AAT) for review of

the Minister's provisional allocation decision. This decision can be challenged in the AAT. **Attachment B** outlines the process in more detail.

Thirdly, after all legal challenges are concluded, the Minister makes a final allocation decision. The quota management system will be then in place from the first full fishing season following this final decision.

What is the quota allocation process for TIB sector?

On the day that the Minister makes a final allocation decision for the TVH sector, the Minister will also allocate 562 000 units (or 56.2%) to the TSRA to hold on behalf of the TIB sector. At this stage, individual TIB licence holders will not hold quota units.

Will the number of quota units change in the future?

Under the current TRL quota management plan, there will never be more than 1 000 000 quota units, however, the number could decrease, but only if some quota units are cancelled (see section 'can quota unit be cancelled').

Will quota units be granted each year?

No. Once quota units have been granted there will be no further grants of quota units. The grant occurs once. This protects the value of the quota units granted under the Plan. What does change is the kilo value of each unit each year (refer to section 'How will I know how many kilograms of TRL a quota unit is worth').

Will the quota units held between sectors and/or operators change over time?

Yes, this is more than likely. Quota units can be traded. Trading will result in changes to amount of quota each sector holds. For example the amount of quota held by the TSRA for the benefit of the TIB sector could increase over time as the TSRA buys quota from individuals in the TVH sector. The TSRA cannot sell any quota that it holds for the benefit of the TIB sector.

HOW WILL THE QUOTA SYSTEM WORK?

What species will be under quota in the Plan?

The Plan covers all lobster species in the family *Palinuridae*; the principle species in the Torres Strait is the tropical rock lobster (*Panulirus ornatus*).

When will quota system start?

The quota system will start at the commencement of the fishing season following the final allocation of quota units. The quota system is expected to start on 1 December 2019/20 unless delayed by legal appeals.

Who will be able to fish in the fishery?

To fish in the fishery a TVH operator must hold both a fishing licence and uncaught quota. For a TIB operator, the person must hold a fishing licence and either be fishing uncaught quota held by the TSRA for the benefit of the TIB sector or individually hold uncaught quota. TIB operators will be notified when the uncaught quota held for the benefit of the TIB sector has been exhausted.

How will the TIB sector know if quota held by TSRA has been caught?

AFMA will provide TIB fishers with Catch Watch notices throughout the fishing season. The Minister will issue a notice to all TIB licences advising when their quota has been caught.

Will there be any new TVH licences?

No. The PZJA maintains a limited entry policy on TVH licences.

Can quota be leased (temporarily transferred)?

Yes, but only for a single fishing season. Quota units can be leased via a 'temporary transfer' under the TRL quota management plan. Quota units cannot be leased to a trust or trustee, if the units have been suspended or cancelled, or if the quota units have already been caught that season.

Can quota be sold (permanently transferred)?

Yes, except by the TSRA. Quota held by the TSRA for the benefit of the TIB sector cannot be permanently transferred.

Can quota be suspended or cancelled?

Yes, for quota held on an individual basis. Suspension and cancellation does not apply to quota held by the TSRA for the benefit of the TIB sector.

Suspension

Quota may be suspended:

1. If a TRL licence is suspended, the quota units that they person holds will be automatically suspended; and
2. If the Minister reasonable believes that a TRL licence would be suspended, the Minister may suspended the held quota units for a period of one month. This situation may occur if the TRL licence holder is undergoing prosecution for a compliance breach.

Cancellation

Quota units may be cancelled:

1. If the person is convicted of an offence against the Act, the Regulations or any Commonwealth laws relating to fishing or against a law of Papua New Guinea or of a State or Territory relating to fishing; or
2. If the person owes money payable under the Act or
 - a. Payments are not made, or
 - b. The person does not make an agreement to make the payments.

Suspension and cancellation of quota units may apply to all quota units a person holds, whether as the owned or leased, and units the person may have leased to another person.

Will there be a public register of quota holders?

Yes. A public register will be available on the PZJA website (www.pzja.gov.au).

How is the Total Allowable Catch determined?

Before each fishing season the Commonwealth Minister, following consultation with the PZJA, will set the total allowable catch which is the amount of TRL that may be taken from the fishery. Before setting the TAC, the Commonwealth Minister and PZJA will consider all recommendations that are made by the Tropical Rock Lobster Resource Assessment Group (TRLRAG) and the Tropical Rock Lobster Working Group (TRLWG).

The Commonwealth Minister, in consultation with the PZJA, may increase the TAC during a fishing season. If the TAC is increased the value (kilogram amount for each quota unit) of all quota units will be increased proportionally.

How much TRL can I take in a fishing season?

If you are a TIB fisher you will have access to the quota held by TSRA for your benefit. If the combined catch by all TIB fishers reaches the amount of quota held by TSRA for your benefit then all TIB fishers will have to stop fishing for the remainder of the fishing season.

If you are a TVH operator the amount of TRL you may take at a particular time during the fishing season is the total amount of uncaught quota you hold. TIB fishers are also permitted to lease or buy uncaught quota from a TVH operator.

What is uncaught quota (or available quota units)?

Uncaught quota is the total number of kilograms you hold, or that TSRA holds on behalf of the TIB sector, less the kilograms of whole TRL caught.

A conversion factor (2.677 to 1) is applied to any tailed product landed, to calculate the whole kilogram amount of TRL taken, e.g. 10kg of tailed TRL is equivalent to 26.7kg of whole TRL.

If I have taken more TRL than my quota allows do I get any time to get more quota?

For TVH operators, if you more TRL than you are permitted to by your uncaught quota you will have committed an offence under the *Torres Strait Fisheries Act 1984*.

For TIB operators, it is an offence to continue to fish for TRL if a notice has been issued by the Minister stating that fishing must stop.

How can I get more quota?

You can either buy or lease more quota. For example a TVH operator may lease quota from the TSRA if they expect to catch their own entire quota.

How will I know how many kilograms of TRL a quota unit is worth?

Once the PZJA has set a TAC for the TRL Fishery, the amount each quota unit is worth will be calculated. This is done by dividing the total allowable catch (in kilograms) by the total amount of quota units in force in the fishery. The result of this calculation is the weight value in kilograms of whole TRL each that can be taken for each quota unit held.

What is the weight conversion ratio?

It is a calculation used to convert tail weight to whole weight. The current conversion factor for tailed to whole TRL is 2.677 to 1. This means that if you land 1 kilogram of tailed TRL, 2.677 kilograms of TRL will be deducted from your unused quota.

What do I need to go fishing?

A person wishing to fish in the TRL Fishery in the TIB sector will need the following authorisations:

1. a TIB fishing boat licence with TRL endorsement;
2. a processor carrier class licence, if operating a primary vessel with tenders;
3. unused TRL quota units (held by TSRA); and
4. if working from a TVH vessel, a Master Fisherman's Licence.

A person wishing to fish in the TRL Fishery in the TVH sector will need the following authorisations:

1. a fishing boat licence with TRL endorsement;
2. a boat nominated and registered to the fishing boat licence;
3. a processor carrier class licence, if operating a primary vessel with tenders;
4. unused TRL quota units; and
5. a Master Fisherman's Licence held by at least one crew member for each vessel.

Can I carry TRL taken with another fishing boat?

You can only carry TRL taken by another fishing boats if you hold a Torres Strait Processor Carrier Class B or Class C licence nominated to your fishing boat.

Primary vessels can take TRL from their associated tenders.

Are there restrictions on who I can land TRL to?

TRL must be landed to a licenced Fish Receiver as soon as the product is brought onto land. TRL are considered to be landed when they are brought onto land or unloaded (live or dead) onto a Carrier Class B or C boat (excluding when catch is loaded directly onto a Seaswift or MIPEC barge)

Does the quota plan apply to Traditional Fishing?

No. The Quota Plan only applies to commercial fishing for TRL.

Will any of the existing rules in the fishery change immediately?

No. The fishery will continue to have output controls such as minimum size limits and bag limits for traditional and recreational fishing as well as a range of input controls that control how you must fish. The input controls in place in the fishery include requirements to hold a licence, tender number restrictions, moon-tide hookah closures, fishery closure 1 October

to 30 November, Hookah closure 1 December to 31 January, fishing gear restrictions, prohibition on carrying meat removed from lobster, prohibition on carrying dive equipment at night and boat length restrictions and replacement policy. These arrangements will be periodically reviewed once the quota management system is operational.

Will I be able to use hookah?

All current input controls (moon-tide hookah closures, gear restrictions, size limits etc) will remain in place until further notice.

Will the area of the fishery change?

No, the area of the fishery will remain the same under the management plan.

Are there any changes to arrangements with Papua New Guinea?

No, catch sharing arrangements between Australia and Papua New Guinea (PNG) will remain unchanged. Under the Torres Strait Treaty PNG cross-endorsed vessels are entitled to take 25 per cent of the TAC within Australian waters. Cross-endorsement arrangements for PNG fishers will remain the same and be managed through separate licences. PNG fishers will not be allocated quota units under the plan.

WHAT HAPPENS BETWEEN THE MAKING OF THE PLAN AND THE FINAL ALLOCATION OF QUOTA?

Will there be a sectoral catch share split?

The PZJA has agreed to implement a sectoral split for the 2018-19 fishing season. For 2018/19 the TIB sector will have access to 66.17 per cent of the TAC. The TIB sector will be able to fish until the 66.17 per cent is caught and a notice closing the fishery is issued.

The TVH will have access to 33.83 per cent of the TAC. The TVH share will be divided between the TVH licence holders according to the 2007 provisional allocation letters. Each licence holder will have an amount of TRL that they can catch, which will be specified in their licence conditions. TVH operators will be able to trade within their sector only.

Quota unit allocation process for the TVH sector

| Cumulative days | Step |
|-----------------|---|
| 0 | The PZJA determines the Plan. |
| | In late November 2018 the PZJA will meet to consider determining the draft <i>Torres Strait Fishery (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2018</i> . At the meeting, the PZJA will consider the outcomes from the 2016 public consultation period and the changes that have been proposed. |
| 1 | The Plan commences on 1 December 2018. |
| | The commencement of the Plan begins the process to the final allocation. Until the final allocation occurs, licence holders are allowed to continue fishing in line with their permit conditions and any existing management arrangements. |
| 61 | Snapshot day |
| | Any person who owns (the principal holder) a transferable vessel licence for either a primary boat or a tender boat on this day, will be eligible for a quota unit allocation under the Plan. |
| 122 | Provisional catch history notices issued |
| | <p>Within 60 days of the snapshot day, the Assistant Minister will issue provisional catch history notices to all persons who were eligible on the snapshot day. These notices will:</p> <ul style="list-style-type: none"> - Outline the provisional boat catch history (the average of the three highest years of catch between 1997-2001 for that licence); - Outline the provisional total catch history, the sum of all the provisional boat catch history totals for all the TVH licences that were enforce on the snapshot day; - State the number of tender boat licences the licence holder owns; - State the total number of tender boat licences that were in force on the snapshot day; - Provide details on how a person may provide an objection to the provisional catch history. <p>These notices notify licence holders of the amount of quota units the licence holder will receive, subject to any objections. The allocation is a combination of the number of tender boats owner and the catch history of that licence. The formula for calculating the quota units was recommended by an Independent Allocation Advisory Panel and accepted by the PZJA.</p> |
| 143 | Objection period |
| | <p>Licence holders have 21 days from the date of the catch history notice to submit an objection to the provisional catch history notice or to request further time to submit an objection.</p> <p>During this period, licence holders are able to object to their provisional boat catch history or the number of tender boat licences. Licence</p> |

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| | holders must supply evidence that support why they are objecting to their provisional boat catch history. |
| 203 | Provisional allocation |
| | Within 3 months of the objection period ending, the Minister will notify licence holders of their provisional quota allocation. The Minister will consider any objections and evidence presented during the objection period before determining the provisional allocation. |
| 231 | AAT review |
| | People who receive a provisional allocation may apply to the Administrative Appeals Tribunal to review the provisional allocation within 28 days of the provisional allocation notice. |
| 291 | Final allocation |
| | Once the appeals process is complete, the Minister will make the final allocation, taking into consideration the outcomes of the appeals processes within 60 days. Eligible licence holders will be notified in writing how many quota units they have received through the allocation. Quota units will be granted to TVH licences holder and the TSRA (TSRA are to hold the traditional inhabitant quota units on behalf of traditional inhabitants). |
| 1 Dec after final allocation | Quota system active |
| | From the first fishing season after the quota units have been granted the quota system will commence. From this point onwards the quota system, as described in the Plan, will be active. Licence holders will be able to sell and lease quota. |