

FINFISH WORKING GROUP	Meeting # 2010.1 31 March 2010
OUTCOMES OF TSFMAC 11 CFG Consultation on Finfish Management Plan	Agenda Item No. 2.1 FOR NOTING

Recommendation

That the FFWG **NOTE:**

1. the action item from TSFMAC 11 regarding the Finfish Management Plan;
2. that Community Fisher Group were unable to come to agreement on including three provisions in the draft management plan being:
 - a. Transfer of TIB (traditional inhabitant) licenses;
 - b. Transfer of Units of Fishing Capacity;
 - c. Transfer of Annual Catch Entitlements.

Background

A management plan for the Torres Strait Finfish Fishery has been discussed at the Finfish Working Group since 2007, with the outline of the management plan agreed to in-principle by the Finfish Working Group (FFWG) in July 2009 (4.1.2).

The FFWG agreed that the management plan would include provisions for implementation of a quota management system should a change in the fishery warrant further management activities with the details of the quota management system to be decided facilitated by community consultation when required (4.1.1, July 2009).

At TSFMAC 11 (Nov 2009) some Community Fisher Group (CFG) members voiced concern regarding three provisions to be included in the draft management plan being:

1. Transfer of TIB (Traditional Inhabitant) licenses;
2. Transfer of Units of Fishing Capacity;
3. Transfer of Annual Catch Entitlements.

The TSFMAC requested that TSRA with AFMA conduct further consultation with the CFG on the inclusion of these provisions in the draft management plan. Consultation with CFG was held on 24 February 2010 and facilitated by TSRA (meeting minutes are in **Attachment 2.1 A**). The CFG was unable to come to consensus on any of the three provisions.

Discussion

AFMA and TSRA are supportive of including the provisions in the draft management plan for the following reasons:

- The provisions do not specify a particular quota management system (e.g. competitive, individual quota or community quota) rather they only make provision for this to occur.

- The type of quota management system would be developed through further community consultation before being implemented.
- The provisions will set the broad range of principles that the PZJA could follow if quota was implemented.
- The provisions are consistent with Australian Government policy on the transferability of statutory fishing rights.
- The provisions will not change the ownership of the fishery, that is the fishery will remain 100% owned by Torres Strait Islanders.
- The provisions are considered to be in the best interests of Torres Strait Islanders as it allows them to have fishing concessions that can have value, generate wealth and be used as collateral.
- The provisions will allow for broader community consultation on these provisions through the public consultation phase.
- The FFWG have agreed (in-principle) to include the provisions in the Draft management plan through endorsement of the management plan outline at the FFWG in July 2009.

Financial Impact

Drafting of the Finfish Management Plan is budgeted in this financial year. Delay in finalising the Draft Management Plan may lead to increased costs for drafting, or costs being delayed to the 2010/2011 financial year.

ATTACHMENT 2.1A

COMMUNITY FISHER GROUP MEETING 2010 - 01
Draft Minutes

Wednesday 24 February, 2010
(OOS teleconference)

Torres Strait Finfish Management Plan: Provisions for the Draft Finfish Management Plan

Purpose

The purpose of the meeting was for the CFG to address the action item from the TSFMAC in November 2009, as outlined in the discussion paper (**Attachment 1**), including the following recommendations:

The Community Fisher Group (CFG):

1. **NOTE** the action item from the Torres Strait Fisheries Management Advisory Committee 11-12 November 2009;
2. **NOTE** the key points on introducing a management plan for the Torres Strait Finfish Fishery;
3. **NOTE** the implications of excluding or including the provisions (described below) into the management plan; and
4. **DISCUSS** and **AGREE** on the appropriate inclusion of provisions within the Outline of the Finfish Management Plan.

Summary

The CFG could not come to agreement in regard to the TSFMAC action item and the above recommendations, in particular, a consensus on the appropriate inclusion of provisions within the Finfish Management Plan was not reached. The CFG discussion on the proposed provisions for the Finfish Management Plan are summarised below.

The meeting commenced 10:30am with the Chair, Mr. Kenny Bedford (TSRA Member for Erub and Marine and Fisheries Portfolio) welcoming the Community Fisher Group (CFG) members.

Attendance

Attendees:	Apologies:	Nil Confirmation:
Chair: Mr Kenny Bedford (TSRA Fisheries Portfolio Member)	Mr Nathan Pearson: (Warraber)	Mr Terrance Whap (Mabuiag) Mr John Wigness (St Pauls) Mr Graham Hirakawa (Port Kennedy) Mr Les Pitt: (Erub) Mr Pearson Wigness (Ngarupai)
TSRA: Mr Steve Hall (Fisheries Policy Officer) Mr Neville Nakata (Fisheries Coordinator)		
AFMA: Dr Annabel Jones (Manager - Thursday Island)		
CFG:		

<p>Mr Yen Loban (Muralag) Mr Maluwap Nona (Badu) Mr Francis Pearson (Poruma) Mr Dennis Passi (Mer - Proxy) Mr William Stephen (Ugar) Mr Dimas Toby (Boigu) Mr Gavin Mosby (Masig) Mr Charles David (Iama) - attended for part of teleconference</p> <p>Observers: Mr Doug Passi (Mer PBC) Mr Seri Stephen (Ugar Fisher) Mr George Ramano (Erub Fisher)</p>	
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Summary of Discussions

Transferring of Fishing Licences – Sunset Licences

- CFG agreed to maintain the current finfish leasing arrangements facilitated by the Finfish Quota Management committee and agreed on the following provisions to be included in the Draft Finfish Management Plan:
 - a. Sunset licences cannot be permanently transferred; and
 - b. Sunset licences may be temporarily transferred subject to defined licence conditions at the discretion of the permanent licence holder (ie: TSRA/FQMC).

Outcome: Maintain status quo.

Transferring of Fishing Licences – TIB Licences

- There was concern that this provision was not necessary if there is no cap on the number of TIB licences (being the current situation) or if a competitive (Olympic) quota system is implemented. There was acknowledgement that a decision to cap the number of licences (including TIB licences) could be made by the PZJA outside the Finfish Management Plan requiring consultation with stakeholders.
- The CFG did acknowledge that this provision would allow fishers to transfer licences to another traditional inhabitant and that this provided value to TIB licences and flexibility if the number of licences is capped.
- There are continued concerns from CFG regarding the capping of TIB licences. If TIB licence numbers are capped, anyone wishing to enter into the fishery would not be able to obtain a licence until such time that one is surrendered (or transferred to them).

Outcome: No consensus.

Transfer of Units of Fishing Capacity

- A number of CFG were concerned this provision indicated that there would be a limitation on new Traditional Inhabitants entering into the fishery as they would need to acquire Units of Fishing Capacity (requiring transfers) if a quota system is introduced.

- A number of CFG were supportive of the transfer of UFC and the economic opportunities and flexibility this provides.

Outcome: No consensus.

Transfer of Annual Catch Entitlements

- A number of CFG were concerned this provision indicated that there would be a limitation on new Traditional Inhabitants entering into the fishery as they would need to acquire Annual Catch Entitlements if a quota system is introduced.
- A number of CFG were supportive of the transfer of ACE and the economic opportunities and flexibility this provides.

Outcome: No consensus.

General points raised

- Mr David (CFG, lama), Mr Loban (CFG, Muralag) and the two representatives from Mer (CFG & PBC) raised the issue that due to the complexity of the agenda item provided to address the provisions to be included in the draft management plan, this should have been facilitated through a face to face meeting and not a teleconference.
- The CFG were asked to note the following:
 - Considerable time and effort had been taken by TSRA and AFMA to facilitate the meeting and ensure the CFG were given the best opportunity to be fully informed and prepared for the meeting;
 - It was clear that a number of CFG were not prepared for the meeting and had not read the information that was provided;
 - The CFG have been involved in discussions on the proposed provisions within the Finfish Management Plan since 2007, including a number of recent opportunities:
 - i. FWG July 2009;
 - ii. CFG meeting November 2009; and
 - iii. TSFMAC November 2009.
 - The provisions to be included in a draft Finfish Management Plan were already agreed to in principle by the Finfish Working Group in July 2009;
 - Following the concerns raised by a CFG representative at the TSFMAC over the Finfish Management Plan provisions, this was a further opportunity (outside of the normal PZJA consultative process) for the CFG to reach a consensus on the agreed inclusion of provisions into the Management Plan.

Attachment 1

Community Fisher Group Meeting 2010 - 01 February 2010

Torres Strait Finfish Management Plan

Item: 2

RECOMMENDATIONS

The Community Fisher Group (CFG):

5. **NOTE** the action item from the Torres Strait Fisheries Management Advisory Committee 11-12 November 2009;
6. **NOTE** the key points on introducing a management plan for the Torres Strait Finfish Fishery;
7. **NOTE** the implications of excluding or including the provisions (described below) into the management plan; and
8. **DISCUSS** and **AGREE** on the appropriate inclusion of provisions within the Outline of the Finfish Management Plan.

BACKGROUND

A management plan for the Torres Strait Finfish Fishery has been discussed at the Torres Strait Finfish Working Group (FWG) since 2007, with the outline of the management plan agreed to in-principle by the Finfish Working Group in July 2009.

A key objective of the management plan is to ensure appropriate management strategies are maintained for the fishery including sustainable harvest. Implementation of a new output (quota) management system will be one option to achieve this.

The FWG, in July 2009, was advised that the immediate implementation of a quota management system for the Finfish Fishery may not be justified given the current level of activity in the fishery. It was proposed, however, that the management plan needs to include provisions for the implementation of a quota management system should this be required in the future (e.g. if there was a significant increase in fishing activity). Having these provisions included in the management plan will allow for a clearer consultative processes and more advantageous arrangements for TIB Fishers if the decision to move to quota management is made by the PZJA.

At the recent TSFMAC (No.11, November 2009) some CFG members voiced concern regarding three provisions to be included in the draft management plan. The TSFMAC agreed to the following action item:

Further consultations to be carried out with CFG representatives to gain a consensus on the inclusion of the following items prior to release of the draft Finfish Management Plan for public comment:

1. *Transfer of TIB licences;*
2. *Transfer of Units of Fishing Capacity; and*

3. *Transfer of annual catch entitlements.*
TSRA will facilitate the consultation with the CFG, assisted by AFMA.

The following provisions were included in the Finfish Management Plan Outline that was agreed to in-principle by the FWG in July 2009:

1. Transferring of Fishing Licences

- a. Sunset licences cannot be permanently transferred.
- b. Sunset licences may be temporarily transferred subject to defined licence conditions at the discretion of the permanent licence holder (ie: TSRA).
- c. TIB licences can be transferred to another Traditional Inhabitant.

2. Transfer of Units of Fishing Capacity

- a. A TIB licensee holding units of fishing capacity may transfer units permanently or temporarily to any other TIB licence holder.
- b. A TIB licensee holding units of fishing capacity may only temporarily transfer units to a non-TIB licence holder.

3. Annual Catch Entitlements (Quota)

- a. Annual catch entitlement (ACE) will be the catch any fisher or group of fishers can take in a defined period of time, generally a fishing season.
- b. ACE will be determined by the formula: $ACE \text{ (weight or days)} = (\text{units held} / \text{maximum \# units in fishery}) \times TAC \text{ or TAE}$.
- c. ACE will only be valid for use in the period of time for which it is allocated.
- d. Any unused ACE may be transferred between all licence holders.

DISCUSSION

Key Points on introducing a management plan for the Torres Strait Finfish Fishery

- Torres Strait Islanders hold 100% of the Torres Strait Finfish resource permanently (Exc. PNG share). The management plan and provisions to be discussed do not change this.
- The exclusion or inclusion of the above mentioned provisions into the management plan will have a number of implications on the operational arrangements for all fishers (even if a quota management system is not implemented under the management plan).
- A quota management system for the Torres Strait Finfish Fishery is not planned (or necessary) at this time given the low level of effort in the fishery, however, the management plan needs to provide for a later implementation of a quota management system if required (e.g. if there was a significant increase in fishing activity).
- The move to a quota management system for the Torres Strait Finfish Fishery would need to be addressed through the PZJA consultative structure (including

consulting with Torres Strait Islanders) before a decision would be considered by the PZJA.

- Implementation of Finfish management plan does not include a decision on capping (limiting) the number of TIB licences, and such a decision is not allowed for in the management plan.
- A move to cap the number of TIB commercially endorsed licences for the Torres Strait Finfish Fishery would also need to be addressed through the PZJA consultative structure (including consulting with Torres Strait Islanders) before a decision would be considered by the PZJA.
- There are considerable differences between the Torres Strait Finfish Fishery and the Torres Strait Kaiar Fishery in their management and operational structures.
- The management plan for Torres Strait Finfish and its objectives are independent of that for any other fishery and decisions made under the finfish plan will not affect the Kaiar Fishery.
- Decisions considered by the PZJA on the management of the Torres Strait Finfish Fishery will continue to be made independently of any other fishery.
- On the implementation of the management plan for the Finfish Fishery, precedents will not be set for other fisheries.

Provisions for inclusion:

1. Transferring of Fishing Licences

- a. Sunset licences cannot be permanently transferred.
 - b. Sunset licences may be temporarily transferred subject to defined licence conditions at the discretion of the permanent licence holder (ie: TSRA/FQMC).
 - c. TIB licences can be transferred to another Traditional Inhabitant.
- Points a and b of this provision are required to continue the current finfish leasing arrangements that are facilitated by the Finfish Quota Management Committee.
 - Point c of this provision will allow Fishers to transfer their licence to another traditional inhabitant if a decision to cap the number of TIB commercially endorsed finfish licences was made by the PZJA.
 - Transferability gives your licence value and flexibility if the number of licences is capped.

2. Transfer of Units of Fishing Capacity (UFC) *

- a. A TIB licensee holding units of fishing capacity may transfer units permanently or temporarily to any other TIB licence holder.
- b. A TIB licensee holding units of fishing capacity may only temporarily transfer units to a non-TIB licence holder.

*[The total amount of UFC available for the fishery would be set prior the introduction of a quota management system. UFC would be the share of the resource that fishers hold permanently. Each season (i.e. one year) quota (i.e. kg of fish) would be allocated to holders of UFC based on the number of UFC they hold and the TAC in that year.]

- This provision only applies if PZJA makes a future decision to move to a quota management system in the life of this management plan (i.e. 5 years).
- This provision will provide further flexibility in the facilitation of leasing arrangements (e.g. allow temporary transfer of UFC to sunset licence holders (non-Islanders) for a set time period.
- Any transfer of UFC would be at the discretion of those that hold the units (Islanders) or those responsible for administering units on behalf of Islanders (Finfish Quota Management Committee).

3. Annual Catch Entitlements (Quota)*

- a. Annual catch entitlements (ACE) will be the catch any fisher or group of fishers can take in a defined period of time, generally a fishing season.
- b. ACE will be determined by the formula: $ACE \text{ (weight or days)} = (\text{units held} / \text{maximum \# units in fishery}) \times \text{TAC or TAE}$.
- c. ACE will only be valid for use in the period of time for which it is allocated.
- d. Any unused ACE may be transferred between all licence holders.

*[The TAC is the total amount of ACE (quota or kg of fish) that can be taken from the fishery in a given fishing season (i.e. one year). If quota management is implemented, ACE will be allocated each season (i.e. annually) based on the number of UFC an individual (or organisation) holds and the value of each unit according to the TAC for that season.]

- This provision is required to continue the current finfish leasing arrangements that are facilitated by the Finfish Quota Management Committee.
- This provision provides the flexibility for those who hold UFC, who do not want to fish (or unable to fish due to breakdown, sickness, finances) for a temporary period, to transfer their ACE (to a TIB or TVH licensee) without giving up their permanent share (UFC) of the fishery resource.

FINFISH WORKING GROUP	Meeting # 2010.1 31 March 2010
OUTCOMES OF TSFMAC 11 Amendment to Fisheries Management Notice No.78	Agenda Item No. 2.2 FOR NOTING

Recommendation

That the FFWG **NOTE:**

- 1.the TSFMAC 11 recommendation to implement a mesh net size restriction for traditional fishing for finfish to the size of 4 inch mesh, 2.5m drop and 100m total length;
- 2.the previous PZJA decision no. 21.2.1.1 to remove the restrictions on live fishing on implementation of a management plan for the fishery;
3. the previous TSFMAC recommendation no. 9.4.3.2(e) to introduce a maximum legal size limit for leopard/square tail coral trout of 62mm.
4. If supported by the PZJA, these decisions will be implemented by amendment to Fisheries Management Notice No 78 to compliment the introduction of the Finfish Management Plan.

Background

Net size restrictions

The use of nets in the finfish fishery is closed to commercial fishing to protect by-catch species such as turtle and dugong. However, the same restrictions do not apply to Traditional Inhabitants in the course of traditional fishing. Concerns regarding by-catch (particularly turtle and dugong) resulting from nets used in traditional fishing were expressed by communities

The Finfish WG (May 2007) agreed in principle that controls on the size of nets used for traditional fishing were needed and that consultations be held with communities to discuss the types of nets used for traditional fishing.

The Finfish WG (July 2009) again raised the issue of net dimensions and discussed a mesh size of 4 inches or less.

Discussion with PNG Traditional Inhabitants indicated strong agreement from PNG to a restricted net size for traditional finfish fishing.

In November 2009 the TSFMAC agreed to restrictions of mesh nets used for traditional fishing to no more than 4 inch mesh, 2.5m drop and 100m length (11.4.7.1)

Retention of live fish

In December 2002, a prohibition (Fisheries Management Notice No. 63) on the retention of live fish in the Torres Strait was introduced into the fishery due to concerns that it may lead to an increase in fishing activity if latent effort in Torres Strait was taken up by fishers displaced from the East Coast fishery.

In July 2007, the TSFMAC acknowledged the potential for live fishing to impact on the Torres Strait Reef Line fishery either through localised depletions and/or increased pressure on plate-sized trout particularly common coral trout. However, it was also recognised that the ability to take live coral trout in the TSFF had benefits both to non-islander and Islander fishers by increasing economic efficiency and increased employment for Torres Strait Islanders. The TSFMAC recommended the PZJA lift the ban on holding live fish in Torres Strait (9.4.3.2(g)).

In August 2007 the PZJA agreed (PZJA 21.2.1.2) that the ban on live fishing for coral trout in Torres Strait be lifted by revoking FMN No.78 on implementation of the Finfish management plan.

Recent low interest in leasing sunset licenses with coral trout catch by non-islanders in the fishery has been partly blamed on the restriction on live fishing in Torres Strait. It has therefore been discussed that lifting this ban could stimulate interest in leasing in the fishery as well as increase the leasing price paid by lessees.

Size limits for the leopard/square tail coral trout (*P. areolatus*)

In the Torres Strait, coral trout species (*Plectropomus* and *Variola*) have previously been managed as a collective group (i.e. 38cm minimum legal size limit) under the assumption that their reproductive biology was similar. However research indicates that the reproductive biology of the leopard/square-tail trout (*P. areolatus*) is significantly different from other species and the current size limits do not protect males (as these species change gender at a larger size).

In May 2007, the Finfish WG agreed to recommend new maximum legal size limits of 62 centimeters for *P. areolatus*. In July 2007, the TSFMAC agreed to recommend these maximum size limits to the PZJA (9.4.3.2(e)). These size limits were included in a list of new arrangements to be introduced as part of the Finfish Management Plan presented at PZJA 21 and agreed to in-principle by the PZJA (21.2.1.3).

Discussion

A number of changes relating to the taking, processing and carrying of finfish are to be recommended to the PZJA. These include:

- a) Implementation of new net size restrictions for traditional fishing;
- b) Removal of the prohibition on the retention of live fish; and
- c) Implementation of new maximum legal size limits for the leopard/square tail coral trout (*P. areolatus*).

These changes have been thoroughly discussed and recommended by the Finfish Working Group (WG) and the Torres Strait Fisheries Management Advisory Committee (TSFMAC) and (in the case of live fish) agreed by the PZJA.

The changes will be implemented by amendments to Fisheries Management Notice No. 78, subject to PZJA approval, and will compliment the introduction of the Finfish Management Plan.

A Best Practice Preliminary Assessment has been undertaken and the Office of Best Practice Regulation considers the amendments to be low risk and no further analysis (in the form of a Regulatory Impact Statement) is necessary.

The new draft FMI and Explanatory Statement are attached (Attachments 2.2A & 2.2B) for information.

Financial Impact

The amendments to the FMN 78 are budgeted in this financial year.

Torres Strait Fisheries Act 1984

Fisheries Management Instrument No. XX

TORRES STRAIT FINFISH FISHERY

***PROHIBITIONS RELATING TO THE TAKING, PROCESSING AND
CARRYING OF FINFISH
(GEAR, SIZE AND AREA RESTRICTIONS AND
TAKE AND CARRY LIMIT)***

The Protected Zone Joint Authority, acting in accordance with the powers conferred on the Authority by paragraph 35(1)(a) of the *Torres Strait Fisheries Act 1984*, and the Minister in accordance with the powers under section 16 of the *Torres Strait Fisheries Act 1984*, makes the following legislative instrument.

Dated this day of , 2010

The Hon. Tony Burke, MP
Commonwealth Minister for Agriculture, Fisheries and Forestry
on behalf of the Protected Zone Joint Authority

CITATION

1. This instrument may be cited as Torres Strait Fisheries Management Instrument No. **XX**.

COMMENCEMENT

2. This instrument commences on the day after registration.

THIS INSTRUMENT TO APPLY WITH OTHER INSTRUMENTS

3. This instrument applies in conjunction with any other instrument in force in the area of the Torres Strait Finfish Fishery.

REVOCAION OF FISHERIES MANAGEMENT NOTICE NO 78.

4. Fisheries Management Notice No. 78, dated 22 September 2006, is revoked.

INTERPRETATION

- 5.1 In this instrument, unless the contrary intention appears “the Act” means the *Torres Strait Fisheries Act 1984*.
- 5.2 Terms used but not defined in this instrument have the same meaning as in the Act and the *Torres Strait Fisheries Regulations 1985*.
- 5.3 In this instrument, unless the contrary intention appears:

“finfish” means all fish of the *Superclass Pisces* other than:

- (i) mackerels (*Scomberomorus* spp.);
- (ii) Shark mackerel (*Grammatorecynus bicarinatus*);
- (iii) tunas (*Thunnus* spp.);
- (iv) skipjack tuna (*Katsuwonus pelamis*);
- (v) fish of the Family *Bramidae* (pomfrets); and
- (vi) fish of the Families *Istiophoridae* and *Xiphiidae* (billfish).

“bait net” means:

- (i) a cast net not more than 6 metres in diameter and having a mesh size of not more than 28 millimetres; or
- (ii) **a mesh or seine net not more than 400 metres in length and having a mesh size of at least 12 millimetres but not more than 45 millimetres.**

“fishing apparatus” means hand held fishing lines or fishing rods or mechanically operated reels and lines.

“line fishing methods” means fishing by use of hand held fishing lines or fishing rods or mechanically operated reels and lines where:

- (i) each fishing line has no more than 6 hooks attached to it; and
- (ii) at any one time no more than 3 fishing apparatus are being used for fishing from the boat in respect of which a licence holder has been granted a licence;

“mesh net” means a net used as a gill net, mesh net, ring net or a net that is not fixed or hauled.

“mesh size” means:

- (i) for a knotted mesh net, the average distance when the net is taut between the inner edges of 2 diagonally opposite knots; and
- (ii) for a knotless mesh net, the average distance when the net is taut between the inner edges of 2 diagonally opposite corners;

where the distance is determined by averaging the size of each of 10 meshes at least 30 centimetres from each other.

“seine net” means a beach or haul seine net, with or without a pocket, shot in a way to partly encircle fish.

PROHIBITION (GENERAL)

6. Pursuant to paragraph 16(1)(a) of the Act, the taking, processing or carrying of finfish, other than barramundi, is prohibited.

PROHIBITION (BARRAMUNDI)

7. Pursuant to paragraph 16(1)(a) of the Act, the taking, processing or carrying of barramundi in the area of the finfish fishery is prohibited.

EXEMPTIONS FROM PROHIBITIONS

8. Pursuant to paragraph 16(1A)(d) of the Act:

- (a) **a person holding a licence granted under subsections 19(2) or 19(3) of the Act, that entitles that person to take, process or carry finfish is exempt from the prohibition in paragraph 6; or**
- (b) a person holding a licence granted under subsections 19(2) or 19(3) of the Act the subject of a declaration under subsection section 17 (1) that entitles that person to take, process or carry finfish is exempt from the prohibitions in paragraph 6 and 7; or
- (c) a person holding a licence granted under subsection 19(2) or 19(3) of the Act that entitles that person to take, process or carry mackerel, is exempt from the prohibition in paragraph 6 to take a maximum of 20 kilograms of finfish in any form at any one time; or
- (d) a person holding a licence granted under subsection 19(2) or 19(3) of the Act, other than a licence of a kind referred to in paragraphs (a) or (b), is exempt from the prohibition in paragraph 6 to take or carry at any one time:
 - (i) a maximum of 20 kilograms of finfish in any form; or

- (ii) where a quantity of mackerel is also being carried, the combined weight of mackerel and finfish are no more than 20 kilograms; or
- (e) a person holding a licence granted under subsection 19(2) of the Act that entitles the person to take Spanish Mackerel is exempt from the prohibition in paragraph 6 to use a bait net to take bait for their own use; or
- (f) a person engaged in traditional fishing is exempt from the prohibitions in paragraphs 6 and 7.

SIZE LIMITS

- 9.1 Pursuant to paragraph 16(1)(b) of the Act, it is prohibited in the area of the finfish fishery, except in the course of traditional fishing, to take, process or carry finfish:
- (a) of the kind referred to in Schedule 1, that when measured in accordance with Paragraph 9.2, are less than the minimum lengths specified in Schedule 1; or
 - (b) of the kind referred to in Schedule 2, that when measured in accordance with Paragraph 9.2, are less than the minimum lengths or greater than the maximum lengths specified in Schedule 2; or
 - (c) of the kind referred to in Schedule 3, that when measured in accordance with Paragraph 9.2, are greater than the maximum length specified in Schedule 3.
- 9.2 For the purposes of paragraph 9.1, the length of a finfish shall be measured from the point of the snout (or tip of the lower jaw, if that tip protrudes beyond the snout), to the extremity of the tail or caudal fin, whichever is longer.

NO TAKE SPECIES

10. Pursuant to paragraph 16(1)(b) of the Act, it is prohibited in the area of the finfish fishery, except in the course of traditional fishing, to take, process or carry finfish of the kind referred to in Schedule 4.

SHARK FINNING

11. Pursuant to paragraph 16(1)(a) of the Act, it is prohibited in the area of the finfish fishery to remove the fins from a shark and discard the torso into the sea.

GEAR RESTRICTIONS

- 12.1 Pursuant to paragraph 16(1)(c) of the Act, a person is prohibited in the area of the finfish fishery to take finfish, except in the course of traditional fishing, by a method other than:
- (a) line fishing methods, where a person holds a licence granted under subsections 19(2) of the Act that entitles that person to take finfish by line fishing methods;
 - (b) the use of a bait net.

- 12.2 Pursuant to paragraph 16(1)(c) of the Act, a person in the course of traditional fishing is prohibited in the area of the Torres Strait Finfish Fishery to take finfish by the use of a mesh net of more than 100 metres in length, 2.5 metres in depth and having a mesh size greater than 100 millimetres.

PERMANENT CLOSURES

13. Pursuant to paragraph 16(1)(a) of the Act, the taking of finfish, except in the course of traditional fishing, is prohibited by line fishing methods in that part of the finfish fishery west of Longitude 142°31'49".

SEASONAL CLOSURE - BARRAMUNDI

14. Pursuant to paragraph 16(1)(a) of the Act the taking of barramundi, except in the course of traditional fishing, is prohibited in the area of the finfish fishery during the period commencing from 1200 hours on 1 November in a year and ending 1200 hours on 1 February the following year.

SCHEDULE 1

FINFISH	MINIMUM LENGTH IN MILLIMETRES
barramundi cod (<i>Cromileptes altivells</i>)	450
black king-fish (<i>Rachycentron canadus</i>)	750
black-spot tusk-fish (<i>Choerodon schoenleinii</i>)	300
coral trout (<i>Plectropomus</i> spp.) other than <i>P. laevis</i> (blue-spot or ocean trout – see Schedule 2)	380
dolphin-fish (<i>Coryphaena</i> spp.)	450
grass sweetlip (<i>Lethrinus fletus</i>)	300
hussar (<i>Lutjanus amabilis</i>)	250
teraglin jew (<i>Atractoscion aequidens</i>)	380
large-mouthed nannygai (<i>Lutjanus malabaricus</i>)	400
large-scale sea perch (<i>Lutjanus johni</i>)	350
mangrove jack (<i>Lutjanus argentimaculatus</i>)	350
moses perch (<i>Lutjanus russelli</i>)	250
mulloway (<i>Argyrosomus hololepidotus</i>)	450
pearl perch (<i>Glaucosoma scapulare</i>)	350
purple tusk-fish (<i>Choerodon cephalotes</i>)	300
red emperor (<i>Lutjanus sebae</i>)	550
red throat emperor (<i>Lethrinus miniatus</i>)	380
rosy job-fish (<i>Etelis</i> and <i>Pristipomoides</i> spp.)	380
silver jewfish (<i>Nibea soldado</i>)	450
silver teraglin (<i>Otolithes ruber</i>)	300
small-mouthed nannygai (<i>Lutjanus erthropterus</i>)	400
snapper (<i>Pagrus auratus</i>)	350
Spangled emperor (<i>Lethrinus nebulosus</i>)	450
spotted or black jewfish (<i>Protonibae diacanthus</i>)	450
stripey (<i>Lutjanus carponotatus</i>)	250
venus tusk-fish (<i>Choerodon venustus</i>)	300
wahoo (<i>Acanthocybium solandri</i>)	750
yellowtail king-fish (<i>Seriola lalandi</i>)	500
bar-tailed flathead (<i>Platycephalus indicus</i>)	300
burnett salmon (<i>Polydactylus sheridani</i>)	400
Cooktown salmon (<i>Eleutheronema tetradactylum</i>)	400
golden lined whiting (<i>Sillago analis</i>)	230
luderick (<i>Girella tricuspidata</i>)	230
pikey bream (<i>Acanthopagrus berda</i>)	230
sand flathead (<i>Platycephalus arenarius</i>)	300
sand whiting (<i>Sillago ciliata</i>)	230
sea mullet (<i>Mugil cephalus</i>)	300
small spotted grunter bream (<i>Pomadasys agenteus</i>)	300
spotted grunter bream (grunter) (<i>Pomadasys kaakan</i>)	300
tailor (<i>Pomatomus saltatrix</i>)	300
tarwhine (<i>Rhabdosargus sarba</i>)	230
yellow-finned bream (<i>Acanthopagrus australis</i>)	230

SCHEDULE 2

FINFISH	MINIMUM LENGTH IN MILLIMETRES	MAXIMUM LENGTH IN MILLIMETRES
barramundi (<i>Lates calcarifer</i>)	580	1200
blue-spot trout (<i>Plectropomus laevis</i>)	500	800
estuary cod (<i>Epinephelus</i> sp.)	350	1200
leopard/squaretail trout (<i>Plectropomus areolatus</i>)	380	620
red bass (<i>Lutjanus bohar</i>)	450	550

SCHEDULE 3

FINFISH	MAXIMUM LENGTH IN CENTIMETRES
shark of the subclass Elasmobranchii but excluding electric rays (Torpedini forms), skates (Rajiformes), and stingrays (Myliobati forms). Also excluded are hammerhead sharks (<i>Sphyrna lewini</i>), grey nurse sharks (<i>Carcharias taurus</i>) and tiger sharks (<i>Galeocerdo cuvier</i>) - see Schedule 4.	200

SCHEDULE 4

NO TAKE SPECIES

potato cod (*Epinephelus tukula*)
Queensland groper (*Epinephelus lanceolatus*)
chinaman fish (*Symphorus nematophorus*)
paddletail (*Lutjanus gibbus*)
humphead Maori wrasse (*Cheilinus undulatus*)
hammerhead shark (*Sphyrna lewini*)
grey nurse shark (*Carcharias taurus*)
tiger shark (*Galeocerdo cuvier*)

EXPLANATORY STATEMENT**Amendments to FMN 78**

The content of the proposed revised instrument amends Fisheries Management Notice No.78 to remove the current prohibition on the retention of live finfish, to introduce a maximum legal size limit for *Plectropomus areolatus* and to introduce new net size restrictions for traditional fishing. The revised Instrument includes the following content:

Clause 1	States that the notice may be cited as Torres Strait Fisheries Management Instrument No.XX.
Clause 2	States that the instrument commences on the day after registration.
Clause 3	States that the instrument applies in conjunction with any other notice or instruments in force in the Torres Strait Finfish Fishery.
Clause 4	Revokes Fisheries Management Notice No.78, dated 22 September 2006.
Clause 5	Details how certain words and terms used in the instrument are to be interpreted.
Clause 6	Prohibits the taking, processing or carrying of finfish (other than barramundi) in the area of the Torres Strait Finfish Fishery unless an exemption is in force.
Clause 7	Prohibits the taking, processing or carrying of barramundi in the area of the Torres Strait Finfish Fishery unless an exemption is in force.
Clause 8(a)	Exempts a person holding a commercial fishing licence (other than a community fishing licence) from the prohibition to take, process or carry finfish in the area of the Torres Strait Finfish Fishery.
Clause 8(b)	Exempts a person holding a community fishing licence (TIB) from the prohibition to take, process or carry finfish in the area of the Torres Strait Finfish Fishery.
Clause 8(c)	Allows a person holding a commercial fishing licence with a mackerel entry to take up to 20 kilograms of finfish in any form.
Clause 8(d)	Allows a person holding a commercial fishing licence with an entry other than finfish, to take up to 20 kilograms of finfish in any form or a combined total of 20 kilograms of mackerel and finfish.
Clause 8(e)	Allows a person holding a commercial fishing licence with a Spanish Mackerel entry to use a bait net to take bait for their own use.
Clause 8(f)	Exempts a Traditional Inhabitant in the course of traditional fishing from the prohibition to take, process or carry finfish in the area of the Torres Strait Finfish and Barramundi fisheries.
Clause 9.1	Describes the size limits for the species of finfish listed in Schedule 1, 2 and 3 of the instrument.
Clause 9.2	Describes the method for measuring the size of finfish.
Clause 10	Prohibits the take of certain species of finfish listed in Schedule 4 of the instrument except for Traditional Inhabitant in the course of traditional fishing.

Clause 11	Prohibits a person, in the area of the Torres Strait Finfish Fishery, to remove the fins from any shark and discard the torso into the sea.
Clause 12.1	Specifies the type of equipment that can be used by a person holding a commercial fishing licence to fish in the Torres Strait Finfish fishery.
Clause 12.2	States the net size restrictions applicable to Traditional Inhabitants in the course of traditional fishing in the area of the Torres Strait Finfish Fishery.
Clause 13	States that a permanent closure to line fishing exists, except in the course of traditional fishing, in the area of the Torres Strait Finfish Fishery west of the longitude stated.
Clause 14	States the seasonal closure for barramundi fishing, other than traditional fishing, in the area of the Torres Strait Finfish Fishery.
Schedule 1	Specifies the minimum size limits for those species listed.
Schedule 2	Specifies the minimum and maximum size limits for those species listed.
Schedule 3	Specifies the maximum size limits for those species listed.
Schedule 4	Specifies the species that can not be taken in the area of the Torres Strait Finfish Fishery in the course of commercial or community fishing.

FINFISH WORKING GROUP	Meeting # 2010.1 31 March 2010
DRAFT FINFISH MANAGEMENT PLAN Draft Management Plan Content	<i>Agenda Item No. 3.1</i> FOR DECISION

Recommendation

- 1: That the TSFFWG **NOTE** the Draft Torres Strait Finfish Management Plan
- 2: That the TSFFWG **AGREE** to recommend to the PZJA that they release the Draft Torres Strait Finfish Management Plan for public comment.

Background

The Finfish Working Group (FFWG, July 2009) agreed in-principal to the outline of the Draft Finfish Management Plan after two years of discussion and consultation. In November 2009 the draft management plan outline was presented to the Torres Strait Fisheries Management Advisory Committee (TSFMAC) where some CFG members voiced concern regarding a number of options to be included in the plan. These included:

1. Transfer of fishing licenses;
2. Transfer of units of fishing capacity; and
3. Transfer of annual catch entitlements.

The TSFMAC agreed that further consultations should be carried out with the CFG representatives to resolve these concerns. In February 2010, the CFG met to discuss these concerns. The CFG was not able to form a consensus view. For more information refer to agenda item 2.1.

AFMA and TSRA recommend that the draft management plan include provisions that allow for transfers of licenses, units of fishing capacity and annual catch/effort entitlements to ensure maximum flexibility for a range of different quota management systems to be considered in the future and to ensure that the fishery provides a sound economic basis for Traditional Inhabitants.

A Draft Torres Strait Finfish Management Plan is provided at Attachment 3.1A for the consideration of the FFWG.

Discussion

The Draft Finfish Management Plan has been developed by an independent drafter qualified to draft legislative instruments (such as a management plan) following the drafting instructions provided to her based on the outline agreed to by the FFWG.

The drafter has had previous experience with drafting the Torres Strait Prawn Management Plan (2009).

The FFWG should consider the Draft Management Plan carefully to ensure that the provisions included in it provide for the appropriate management arrangements for the fishery. The FFWG should also be comfortable that the Draft Finfish Management Plan contains the elements agreed to in the plan outline.

Following consideration by the FFWG, the Draft Management Plan will be presented to the PZJA for endorsement before being released for public consultation. The period of public consultation will allow for all stakeholders to provide comment on the Draft Finfish Management Plan prior to the Plan being finalised. The timeline to implementation and the steps required is discussed in item 3.4 of this meeting.

Financial Impact

The preparation and drafting of the Finfish Management Plan has been budgeted for the 2009-2010 budgets. Significant amendments to the Draft Management Plan may incur additional (unbudgeted) costs and would need to be considered on a cost/benefit basis. Delays in developing a Final Management Plan to 2010-2011 budgets round would require changes to current budget planning.

The cost of implementing some of the management arrangements set out in the plan, such as quota, would be significant and would need to be considered by the PZJA.

Part 1 Preliminary

1.1 Name of Management Plan

This plan is the Torres Strait Finfish Management Plan 2011.

1.2 Commencement

This Management Plan commences on the day after it is registered on the Federal Register of Legislative Instruments.

1.3 Interpretation

In this plan, unless the contrary intention appears.

annual catch entitlements (ACE) means the annual catch entitlements determined by the PZJA under section 3.8.

annual effort entitlements (AEE) means the annual effort entitlements determined by the PZJA under section 3.8.

ALC means an Automatic Location Communicator that is part of the VMS equipment of a boat that transmits information:

- (a) about the location of the boat; and
- (b) with one or more other devices, about fishing activities being undertaken by the boat.

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 or AFMA for the section in which the term is used.

by-catch means marine life that is:

- (a) incidentally taken in the fishery and returned to the sea for any reason; or
- (b) incidentally affected by interacting with fishing equipment in the fishery but not taken.

by-product means non-target marine life that:

- (a) is incidentally taken in the fishery; and
- (b) may be taken under the Act or a relevant instrument under the Act; and
- (c) is retained for commercial purposes.

commencement date means the date on which this Plan commences.

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

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999*.

finfish means reef fish and mackerel.

fisheries jurisdiction line means the Torres Strait fisheries jurisdiction line as described in the Treaty.

fishery means the Torres Strait Finfish Fishery.

fishing apparatus means hand held fishing lines or fishing rod and reel or mechanically operated reels and lines.

fish receiver licence means a licence to receive fish granted under section 19(4B) of the Act.

fishing season has the meaning given by section 2.6.

group means a group of persons, or an entity, representing traditional inhabitants.

harvest strategy means the management actions necessary to achieve specific biological and economic objectives in a fishery.

holder, for a TSFF licence, a TSFF Treaty endorsement, or a unit, at a particular time, means the person who holds the licence, endorsement or unit at that time because of a grant of the licence or endorsement, transfer of the licence, or allocation or transfer of the unit.

local time means the time of day in the State of Queensland.

mackerel means fish of the following species:

- (a) Spanish Mackerel (*Scomberomorus commerson*);
- (b) School Mackerel (*Scomberomorus queenslandicus*);
- (c) Grey Mackerel (*Scomberomorus semifasciatus*);
- (d) Spotted Mackerel (*Scomberomorus munroi*);
- (e) Shark Mackerel (*Grammatorcynus bicarinatus*).

master fisherman's licence means a licence granted under section 19(1) of the Act.

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

PNG means Papua New Guinea.

PNG boat means a boat for which a PNG licence is in force and which is endorsed to fish commercially in Australia under section 20 of the Act.

primary boat is a boat:

- (a) identified in a licence for the fishery as the primary commercial fishing boat for the licence; and

- (b) nominated in the register as the primary boat for the licence. DOES IT HAVE TO BE BOTH?

PZJA means the Protected Zone Joint Authority.

PZJA website means web pages that form the Internet website for the PZJA.

quota, for a licence, means:

- (a) if the PZJA determines a TAC under section 3.1 - the amount (by weight) of finfish of a particular quota species or species group that may be taken, in a fishing season; or
- (b) if the PZJA determines a TAE under section 3.2 - the number of days that may be fished in the fishery in the period for which the quota is valid.

quota species means a species or species group of finfish for which there is a TAC. IS THIS CIRCULAR, GIVEN (a) ABOVE?

reef fish means all fish of the Superclass *Pisces*, other than:

- (a) mackerels (*Scomberomorus* spp.);
- (b) shark mackerel (*Grammatorcinus bicarinatus*);
- (c) tuna (*Thunnus* spp);
- (d) skipjack tuna (*Katsuwonus pelamis*);
- (e) fish of the Family *Bramidae* (pomfrets);
- (f) fish of the Families *Istiophoridae* and *Xiphiidae* (billfish).

reef line entry means an entry on a TSFF commercial licence, or a treaty endorsement, that allows the holder of the licence or endorsement to harvest reef fish.

reference point means an indicator of the level of some characteristic of the fishery used as a benchmark in assessing the performance of the objectives of this Plan.

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

Regulations means the Torres Strait Fisheries Regulations 1985.

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

Spanish mackerel entry means an entry on a TSFF commercial licence, or a treaty endorsement, that allows the holder of the licence or endorsement to harvest Spanish mackerel.

temporary licence means a licence granted to a person who is not a traditional inhabitant or a group.

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 boat for the licence.

TSFF commercial licence means a licence granted under section 19(2) of the Act that has a reef line or Spanish mackerel entry that allows the boat identified in the licence to be used for commercial fishing for finfish in the fishery.

TSFF licence means a TSFF boat licence, TSFF master fisherman's licence and TSFF TPC licence.

TSFF master fisherman's licence means a licence granted under section 19(1) of the Act that has a reef line or Spanish mackerel entry that allows the holder to be in charge of the commercial fishing activities aboard a boat referred to in a TSFF commercial licence.

TSFF TPC licence means a licence granted under section 19(3) of the Act that has a reef line or Spanish mackerel entry that allows the boat identified in the licence to be used for carrying, or processing and carrying, product taken by boats with a TSFF commercial licence in the fishery.

total allowable catch (TAC), for finfish species and a fishing season, means the total catch of the finfish species that may be taken in the fishery in that fishing season, in accordance with a determination of the PZJA under section 3.1.

total allowable effort (TAE), for a fishing season, means the total fishing effort that may be expended in the fishery in that fishing season, determined by the PZJA under section 3.2.

Torres Strait Finfish Fishery means the area described in Schedule 2 Item 4 and Item 7 of the Torres Strait Fisheries Regulations 1985.

TPC licence means a licence granted under subsection 19(3) of the Act.

traditional fishing means taking living natural resources of the sea, seabed, estuaries and coastal tidal areas by traditional inhabitants for their own or their dependants' consumption or for use in the course of other traditional activities.

traditional inhabitants means persons who:

- (a) are Torres Strait Islanders who live in the Protected Zone or the adjacent coastal area of Australia; and
- (b) are citizens of Australia; and
- (c) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities.

Treaty means the Torres Strait Treaty.

Treaty endorsement means an endorsement granted under section 20(1)(a) of the Act that allows the boat identified in the Treaty endorsement to be used:

- (a) for commercial fishing for finfish in the fishery; or
- (b) for carrying, or processing and carrying, finfish taken in the fishery by another Treaty endorsement boat.

TSFMAC means the Torres Strait Fisheries Management Advisory Committee.

TSRA means Torres Strait Regional Authority.

unit means a unit of fishing capacity into which the fishing capacity is divided by the PZJA under Part 3.

VMS means Vessel Monitoring System.

whole fish means fish that have head, fins and guts intact and have not been processed in any way.

whole weight means weight of a whole fish in kilograms.

[NOTE: The following terms used in this Plan are defined in the Act and have the same meaning as in the Act:

TO BE DONE

1.4 Area of the fishery

- (1) The area of the fishery is the area described in Schedule 2 of the *Torres Strait Fisheries Regulations 1973*.
- (2) The position of geographical coordinate in the description of the area of the fishery and areas excluded from the fishery is to be determined by reference to the Australian Geodetic Datum 1966 (AGD66).
- (3) For convenience in the use of navigational aids, the area of the fishery is described in Schedule 1 by reference to the World Geodetic Datum Australia 1996 (GDA96).
- (4) Any inconsistency in the descriptions of the area of the fishery is to be determined by reference to the Australian Geodetic Datum 1966 (AGD1966).

1.5 Objectives

In addition to the objectives in the Act, the objectives of this Plan are as follows:

- Objective 1: To acknowledge and protect the traditional way of life and livelihood of Traditional Inhabitants, including their rights in relation to traditional fishing for finfish.
- Objective 2: To ensure that harvest levels are at, or below, levels that maintain biologically viable stocks of target and non-target species.
- Objective 3: To provide for the use and conservation of Torres Strait Finfish resources in a way that minimises impact on the marine environment..
- Objective 4: To optimise economic viability of the fishery.
- Objective 5: To provide for optimal utilisation, cooperative management, and for catch sharing to occur with PNG.

Objective 1. To acknowledge and protect the traditional way of life and livelihood of Traditional Inhabitants, including their rights in relation to traditional fishing for finfish.

Strategies	Performance Criteria
Regulations on the taking, processing and carrying of finfish for commercial purposes	Total commercial catch of target and non-target species or species groups
Quota Management System (output control)	Noting that the Torres Strait Fisheries Act does not have any jurisdiction over recreational or charter fishing in Torres Strait; PZJA agencies to monitor reported catch of charter boat operations and recreational fishing if data is available from external sources
Quota may be set aside for traditional fishing.	Estimated subsistence catch of finfish if data is available from external sources.

Comment [AJ1]: We may need to rewrite this strategy based on discussions on including traditional fishing in the management plan.

Objective 2 Harvest levels are at, or below levels that maintain biologically viable stocks of target and non-target species.

Strategies	Performance Criteria
Regulations on the taking, processing and carrying of finfish (gear, size and area restrictions, take and carry limits).	Total catch of target species or species groups;
Quota Management System (output control).	Total catch of non-target species groups;
	Total catch (all species).

Objective 3 To provide for the use and conservation of Torres Strait Finfish resources in a way that minimises impact on the marine environment.

Strategies	Performance Criteria
Regulations on the taking, processing and carrying of finfish for commercial purposes (gear restrictions, area and seasonal closures).	Number of species and/or community interactions recorded.
Obligations relating to interactions with certain species and communities. Quota Management System (output control).	Total catch of target and non-target species or species group.

Objective 4 To optimise economic viability of the fishery.

Strategies	Performance Criteria
Transferability of licenses.	Total number of licenses
Transferability of Units of Fishing Capacity, annual catch or annual effort entitlements (if Quota Management System is implemented).	Total number of Units of Fishing Capacity, annual catch or annual effort entitlements transferred per fishing season (if Quota Management System is implemented).
Allow for non-Traditional Inhabitant fishers to hold a temporary licence (sunset licence) and fish in the fishery.	Total weight of quota species issued to temporary licence holders per fishing season.

Objective 5 To provide for optimal utilisation, cooperative management, and for catch sharing to occur with PNG.

Strategies	Performance Criteria
Allow for PNG licence holders to be issued cross endorsement for the fishery.	Cross endorsements issued to PNG, if requested, in a timely manner.
Conditions on PNG cross endorsements are complementary to TSFF licence holders	Conditions on Cross endorsements issued are consistent with Treaty obligations.
	PNG invited to participate in management discussions for the fishery through bi-lateral meetings and other meetings as appropriate.
	PNG provides catch and effort information for PNG fishers in the protected zone.

1.6 Measures and performance criteria for the objectives

- (1) The measures by which the objectives of this Plan are to be attained, and the performance criteria against which, and time frames within which, the measures taken are to be assessed, are as follows:
TO BE INSERTED – instructions to come

1.7 Reference points

- (1) The PZJA may determine reference points for the fishery that are appropriate to uphold the objectives of this Plan.
 (2) The PZJA will review the reference points as necessary to ensure that they remain appropriate.
 (3) The PZJA must:
 (a) monitor catch information on by-product species; and
 (b) if concerns about a species are identified, determine reference points that are appropriate for maintaining ecologically viable stocks of that species and an ecologically sustainable fishery.

1.8 Persons to whom this Plan applies

- (1) This plan applies to a person who is engaged in, or intends to engage in, any of the following in the area of the fishery:
 (a) commercial fishing for finfish; or
 (b) carrying, or processing and carrying, commercially caught finfish ; or
 (c) scientific or developmental research for finfish.

1.9 Persons to whom this Plan does not apply

- (1) This plan does not apply to a person who:

- (a) is engaged in recreational fishing (whether from a charter boat or otherwise);
or
- (b) is engaged in traditional fishing.

Part 2 Fishing in the fishery

2.1 Who may fish in the fishery

- (1) A person may fish commercially for finfish in the area of the fishery only if the person holds, or is acting on behalf of a person who holds:
 - (a) a TSFF licence with a Spanish Mackerel or Reef Line entry; or
 - (b) a treaty endorsement.
- (2) A person may take fish in the fishery for developmental purposes only if the person:
 - (a) holds a development permit; and
 - (b) is fishing from a boat nominated for that permit.
- (3) A person may take fish in the fishery for scientific purposes only if the person holds a scientific permit.
- (4) If the PZJA has determined a TAC and TAE for the fishery, a person who fishes commercially must also hold unused units for the fishery.

2.2 What fish can be taken

- (1) Fish that can be harvested for commercial purposes by boats nominated for a licence that has a reef line entry are reef fish, as determined by the PZJA in instruments under section 16 of the Act.
- (2) Fish that can be harvested for commercial purposes by boats nominated for a licence that has a Spanish mackerel entry are Spanish mackerel, as determined by the PZJA in instruments under section 16 of the Act.

2.3 Prohibited fish species

- (1) As set out in section 16 of the Act, the PZJA may, from time to time, prohibit the taking of fish species in the fishery.
- (2) Before making an instrument under section 16, the PZJA will consult the TSFMAC.
- (3) As set out in the Regulations, the PZJA will publish the instrument on the PZJA website.
- (4) Fishers may not take species listed in instruments under section 16 of the Act.

2.4 Fish restricted by size

- (1) As set out in section 16 of the Act, the PZJA may prohibit the taking of finfish that are less than the minimum size for that finfish in the fishery.
- (2) It is a condition of a TSFF licence that the holder does not take finfish smaller than the size fixed by the PZJA.

2.5 Fishing methods

- (1) The rules that apply to fishing methods and the catch or incidental capture of by-catch and by-product species are the rules set out in instruments made under section 16 of the Act that apply to the fishery.

2.6 Fishing season

- (1) Subject to subsection (2), the fishing season is the period from 1 July in a year to 30 June in the following year (the usual period).
- (2) The PZJA may determine that the fishing season is to be a period other than the usual period.
- (3) A determination under subsection (2) must:
 - (a) be made at least 2 weeks before the start of the fishing season in question; and
 - (b) be published on the PZJA website.

2.7 Prohibiting fishing

- (1) As set out in section 16 of the Act, the PZJA may, before the start of a fishing season, by determination prohibit fishing in the fishery.
- (2) The PZJA may by emergency determination prohibit fishing in the fishery after the start of a fishing season if it is satisfied that:
 - (a) there exists a significant threat to the fishery's resources or to a fish or fish habitat; and
 - (b) urgent action needs to be taken to deal with the threat.
- (3) The PZJA:
 - (a) will consult the TSFMAC before making a determination under subsection (1); and
 - (b) if practicable, consult the TSFMAC before making an emergency determination under subsection (2).
- (4) The PZJA will revoke the emergency determination as soon as practicable after it is satisfied that the emergency no longer exists.

Part 3 Units of Fishing Capacity

3.1 Determination of total allowable catch (TAC)

- (1) The PZJA may determine a total allowable catch (TAC) for a finfish species.
- (2) The TAC may be for:
 - (a) a season or other period the PZJA determines; and
 - (b) the area of the fishery or part of the area of the fishery.
- (3) In determining the TAC, the PZJA may have regard to the amount of finfish taken in the fishery by traditional fishing.
- (4) If the PZJA determines a TAC for a species, the total amount of that species taken in that season must not exceed the TAC.
- (5) Before determining the TAC, the PZJA:
 - (a) will consult the TSFMAC; and
 - (b) may consult other interested persons.
- (6) A determination of TAC must specify:
 - (a) the TAC, expressed in whole weight or otherwise as specified in the determination; and

- (b) the period for which the TAC applies; and
- (c) if the TAC applies only to a part of the area of the fishery – that part.

3.2 *Determination of total allowable effort (TAE)*

- (1) The PZJA may determine the TAE for the fishery.
- (2) The TAE may be for:
 - (a) a season or other period the PZJA determines; and
 - (b) the area of the fishery or part of the area of the fishery.
- (3) In determining the TAE, the PZJA may have regard to the amount of finfish taken in the fishery by traditional fishing.
- (4) If the PZJA determines a TAE for particular parts of the fishery, it may determine use entitlements for holders of TSFF licences.
- (4) Before determining the TAE, the PZJA:
 - (a) will consult the TSFMAC; and
 - (b) may consult other interested persons.
- (5) A determination of TAE may be described in terms of fishing days or in any other way the PZJA determines.

3.3 *Change of TAC and TAE*

- (1) The PZJA may by determination increase the TAC or TAE if there is evidence that there will be no substantial increase in the impact of fishing on the fishery.
- (2) The PZJA may by determination reduce the TAC or TAE before the fishing season begins if it is satisfied that:
 - (a) there exists a threat to the fishery's resources or to a fish or fish habitat; and
 - (b) urgent action needs to be taken to deal with the threat.
- (3) In changing the TAC or TAE, the PZJA may have regard to the amount of finfish taken in the fishery by traditional fishing.
- (4) Before changing the TAC or TAE, the PZJA:
 - (a) will consult the TSFMAC; and
 - (b) may consult other interested persons.
- (5) A determination increasing or reducing the TAC or TAE must:
 - (a) set out the new TAC or TAE, and the period for which it remains in force; and
 - (b) set out the reasons for the change

3.4 *Publication of TAC and TAE*

- (1) A determination under section 3.1, 3.2 or 3.3 must be published as soon as practicable on the PZJA website and, if practicable, notified to all holders of TSFF licences and endorsements.

3.5 *Allocation of Units of Fishing Capacity*

- (1) The PZJA may determine a maximum number of units of fishing capacity for the fishery.
- (2) The PZJA may:
 - (a) allocate units of fishing capacity to:
 - (i) individual traditional inhabitants who hold TSFF commercial licences;or

- (ii) groups formally representing traditional inhabitants who hold TSFF commercial licences; and
- (b) hold a number of units of fishing capacity on behalf of Treaty endorsement holders.
- (3) Before allocating units, the PZJA will consult the TSFMAC on appropriate allocation processes to determine an appropriate allocation formula.
- (4) A unit of fishing capacity cannot permanently be held by a person who is not a traditional inhabitant.
- (5) The number of units held on behalf of Treaty endorsement holders will be determined by the PZJA in catch sharing discussions with the PNG government.

3.6 Certificate of allocation of Units of Fishing Capacity

- (1) After the PZJA allocates units of fishing capacity to a person or entity and before the start of a period in which ACE or AEE will be used, the PZJA will give the holder a certificate setting out the person's name and the number of units the person holds.
- (2) If a certificate issued by the PZJA for an allocation is lost, stolen or destroyed or units have been transferred, the PZJA may issue a replacement certificate.

3.7 Value of Units of Fishing Capacity

- (1) If the PZJA has determined a TAC for the fishery, the value of a unit of fishing capacity will be expressed in kilogram amounts of whole weight, using the following formula:

unit value = TAC divided by the sum of all units.

- (2) If the PZJA has determined a TAE for the fishery, the value of a unit of fishing capacity will be expressed in terms of whole fishing days, using the following formula:

unit value = TAE divided by the sum of all units.

3.8 Determination of Annual Catch Entitlements (ACE) or Annual Effort Entitlements (AEE)

- (1) If the PZJA determines a TAC for a species, the PZJA may determine the ACE for the species for each unit holder, in accordance with the following formula:

ACE = number of units x the value of units held.

- (2) If the PZJA determines a TAE for the fishery, the PZJA may determine the AEE for the fishery in accordance with the following formula:

AEE = the number of units x the value of units held.

- (3) Before the beginning of the fishing season, the PZJA will allocate the determined ACE or AEE to each unit holder.
- (4) In determining ACE or AEE, the PZJA will ensure:
 - (a) that, as the case requires:

- (i) the sum of all ACE equals the TAC; or
- (ii) the sum of all AEE equals the TAE; and
- (b) the ACE is expressed in terms of kilograms, rounded to the nearest whole kilogram; and
- (c) the AEE is expressed in terms of days, rounded to the nearest whole day.

3.9 Certificate of allocation of ACE or AEE

- (1) The PZJA will give the holder of ACE or AEE a certificate setting out the person's name and the amount of ACE or AEE the person holds.
- (2) If a certificate issued by the PZJA for ACE or AEE is lost, stolen or destroyed or AAE or ACE has been transferred, the PZJA may issue a replacement certificate.

3.10 Transfer of Units of Fishing Capacity

- (1) A person or a group holding units of fishing capacity may transfer the units permanently or temporarily to any other traditional inhabitant or group.
- (2) A person or a group holding units of fishing capacity may only temporarily transfer units to a person who is not a traditional inhabitant.
- (3) The transferor and transferee must give the PZJA written notice of the transfer.
- (4) The PZJA must not register the transfer of a licence if:
 - (a) a proceeding for an offence against the Act or Regulations has been brought against the transferor or transferee and has not been decided; or
 - (b) any levy due and payable by the transferor or transferee has not been paid.
- (5) The PZJA will issue a new certificate of allocation of the units to the transferee.

3.11 Transfer of ACE or AEE

- (1) A person or a group holding ACE or AEE may transfer any unused entitlements to:
 - (a) another person who is entitled to hold a TSFF licence; or
 - (b) a group.
- (2) The transferor and transferee must give the PZJA written notice of the transfer.
- (3) The PZJA must not register the transfer of unused entitlements if:
 - (a) a proceeding for an offence against the Act or Regulations has been brought against the transferor or transferee and has not been decided; or
 - (b) any levy due and payable by the transferor or transferee has not been paid.
- (3) The PZJA will issue a new certificate of allocation of the ACE or AEE to the transferee.

Part 4 Licences

4.1 Grant of licences and endorsements

- (1) As set out in section 19 of the Act, licences may be granted for commercial fishing from a boat in the fishery and for carrying, or for carrying and processing, product in the fishery.

- (2) A person who is not a traditional inhabitant or a group may only be granted a temporary licence.
- (3) As set out in section 20 of the Act, endorsements may be granted for PNG boats.

4.2 TSFF licences

- (1) A TSFF boat licence granted under section 19 of the Act allows the boat identified on the licence to be used for commercial fishing for finfish in the fishery in accordance with this Plan.
- (2) A licence remains in force for the period specified in the licence.
- (3) A TSFF licence may only be granted to:
 - (a) a traditional inhabitant who lives in the Protected Zone; or
 - (b) a group that represents traditional inhabitants who live in the Protected Zone.

4.3 Temporary licences

- (1) A temporary TSFF licence granted under section 19 of the Act allows the licence holder to fish commercially for finfish in the fishery during the period of the licence.
- (2) A temporary TSFF licence may only be granted to a person who is not a traditional inhabitant or a group.

4.4 Treaty endorsements

- (1) As set out in section 20 of the Act, a finfish treaty endorsement may be granted for commercial fishing for finfish in the fishery in accordance with this Plan.
- (2) A finfish treaty endorsement allows the boat nominated in the endorsement to be used:
 - (a) for commercial fishing for finfish in the fishery; or
 - (b) for carrying, or processing and carrying, finfish taken in the fishery by another treaty endorsed boat.
- (3) A finfish treaty endorsement may only be granted to the holder of a PNG licence that allows the boat identified in the licence to be used for finfish fishing.

4.5 Nomination of a boat

- (1) The holder of a TSFF commercial licence or a temporary licence may nominate a boat for the licence.
- (2) The boat may be a primary boat or a tender.
- (2) As set out in section 25 of the Act, the holder of a TSFF commercial licence or temporary licence may apply to the PZJA in the approved form for a different boat to be the nominated boat for the licence.
- (3) 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 distinguishing number for the boat nominated for the licence; and
 - (ii) states the conditions to which the licence is subject; and
 - (iii) is signed by the PZJA.

- (4) The PZJA must not register a boat as a nominated boat for a TSFF commercial licence or temporary licence if the boat is a nominated boat for another TSFF commercial licence or temporary licence.

4.6 *Entries for the Finfish fishery (Reef Line and Spanish Mackerel)*

- (1) Under section 21 of the Act, the PZJA may make entries in licences and endorsements to extend the licence or endorsement to particular fish.
- (2) The PZJA may limit the number of Spanish Mackerel or Reef Line entries for allocation to TSFF licences and treaty endorsements in the fishery.
- (3) The PZJA will consult with TSFMAC before making a decision limiting the number of Spanish Mackerel or Reef Line entries.

4.7 *Transfer of licences*

- (1) The holder of a TSFF licence or a temporary licence may transfer the licence.
- (2) A TSFF licence may only be transferred to:
 - (a) a traditional inhabitant who lives in the Protected Zone; or
 - (b) a group that represents traditional inhabitants who live in the Protected Zone.
- (3) A temporary licence may only be transferred to a person who is not a traditional inhabitant or a group.
- (4) The transferor and transferee must apply to the PZJA using the approved form for the transfer to be registered, and pay the prescribed fee.
- (5) The PZJA must not register the transfer of a licence if:
 - (a) a proceeding for an offence against the Act or Regulations has been brought against the transferor or transferee and has not been decided; or
 - (b) levy due and payable by the transferor or transferee has not been paid.

4.8 *Primary and tender boats*

- (1) A licence holder is entitled to take, process and transfer product on and between all primary and tender boats nominated for the licence.
- (2) As required by the Regulations, each primary boat will be marked with a distinguishing number, followed by the letter 'T' and then the number of tenders nominated for the licence in brackets (e.g. FVXX-T(3)).
- (3) As required by the Regulations, each tender boat will be marked with a distinguishing number, followed by a dash then a "T" and then the unique tender number [e.g.: FVXX-T (1 or 2 or 3)].
- (4) The PZJA may determine a maximum number of tenders for each licence.
- (5) The PZJA may determine the maximum number of tenders for the whole fishery.

4.9 *Scientific or developmental Permits*

- (1) As set out in section 12 of the Act, permits for scientific or developmental purposes may be granted for an area of the fishery.
- (2) Developmental permits will only be granted to holders of TSFF boat licences.
- (3) The PZJA may determine guidelines for:
 - (a) the grant of and revocation of scientific and developmental permits; and
 - (b) the imposition, variation and revocation of conditions of those permits.

4.10 Other PZJA powers under the Act

- (1) Nothing in this Part is to be taken as limiting the power of the PZJA to grant licenses under section 19 of the Act.

Part 5 Licence and endorsement conditions

5.1 Licence and endorsement conditions - general

- (1) It is a condition of a TSFF licence and an endorsement that the holder must:
 - (a) comply with:
 - (i) this Plan; and
 - (ii) the Regulations that apply to the fishery; and
 - (iii) all applicable provisions of the Act; and
 - (iv) all determinations under Part 3; and
 - (v) any conditions imposed on the licence or endorsement; and
 - (vi) all instruments made under section 16 of the Act that apply to the fishery;
 - (b) ensure that each person acting under the holder's directions complies with this Plan and the legislation and other matters mentioned in paragraph (a); and
 - (c) keep a log book, as set out in section 5.2; and
 - (d) if an observer program is implemented in the fishery, carry an observer, and the observer's safety and monitoring equipment, as set out in section 5.5, if the PZJA asks the holder to do so; and
 - (e) carry a vessel monitoring system, as required by section 5.6; and
 - (f) minimise the impact of fishing operations on the marine environment, as set out in section 5.7; and
 - (g) 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; and
 - (h) carry on board the nominated boat the TSFF licence or endorsement that refers to the boat, and the licence identification card issued by the PZJA under section 6.3; and
 - (i) allow a nominated boat to be independently measured, as required by the PZJA.
- (2) It is a condition of a TSFF commercial licence that the holder must not sell, or otherwise dispose of (other than solely for transportation or storage purposes preceding delivery to the holder of a fish receiver licence) finfish that the holder takes except to the holder of a fish receiver licence or a TSFF TPC licence.

5.2 Licence and endorsement conditions – Logbooks

- (1) The PZJA may determine a form of Logbook for the fishery, as set out in section 14 of the Act.
- (2) If the PZJA determines the form of Logbook, it is a condition of a licence and Treaty endorsement that the holder operating a boat must ensure that the information required by the Logbook about fish taken and effort expended in the fishery is accurately and fully recorded in the Logbook, in accordance with the instructions for completing the Logbook.

5.3 *Licence and endorsement conditions - quota monitoring system*

- (1) If the PZJA determines a quota for the fishery by determining a TAC or TAE for the fishery, it is a condition of a TSFF licence or endorsement that holders of AAE or ACE must comply with:
 - (a) all conditions imposed by the PZJA, and instructions from the PZJA, about the quota monitoring system; and
 - (b) notices and other reporting requirements of the PZJA about the quota monitoring system.

5.4 *Licence conditions – other obligations of licence and endorsement holders*

- (1) It is a condition of a TSFF commercial licence and treaty endorsement that the holder:
 - (a) fishes only for finfish in the fishery; and
 - (b) does not fish for fish species that are prohibited by instrument under section 16 of the Act; and
 - (c) fishes for finfish in the fishery only during the fishing season; and
 - (d) does not fish in the fishery when a determination under section 2.7 is in force.
- (2) It is a condition of a TSFF TPC licence and treaty endorsement that the holder does not carry, or process and carry, fish species that are prohibited by instrument under section 16 of the Act.

5.5 *Licence and endorsement conditions – observers*

- (1) If an observer program is in place in the fishery, it is a condition of a licence and endorsement that the holder complies with the requirements of this section.
- (2) The PZJA may require the holder of a TSFF licence or endorsement to carry a fishing observer on board.
- (3) The observer is entitled to take safety and monitoring equipment on board.
- (4) The observer is entitled to collect:
 - (a) scientific, developmental and management information; and
 - (b) other information about fishing in the fishery required by the PZJA.
- (5) While the observer is on board, the TSFF licence or endorsement holder must:
 - (a) give the observer access to all parts of the fishing vessel; and
 - (b) provide reasonable accommodation for the observer; and
 - (c) allow the observer to use all equipment necessary for the performance of his or her duties.

5.6 *Licence and endorsement conditions - vessel monitoring system (VMS)*

- (1) If a vessel monitoring system is in place in the fishery, it is a condition of a licence and endorsement that the holder complies with the requirements of this section.
- (2) The holder of a TSFF commercial licence or endorsement must have fitted to the boat a VMS that:
 - (a) is installed in accordance with guidelines published by the PZJA; and
 - (b) has a satellite transceiver of a kind approved by the PZJA; and
 - (c) includes an automatic location communicator (ALC) of a kind approved by the PZJA.
- (3) Unless the PZJA agrees otherwise, the VMS must:
 - (a) be operated continuously; and
 - (b) be operated in accordance with the manufacturer's operating instructions at all times.
- (3) If the ALC is not operating or is malfunctioning:
 - (a) the boat must not leave port until the ALC is functioning; and

- (b) if the boat has left port, the master must notify the PZJA and comply with any instructions given by the PZJA; and
- (c) the master must give the PZJA manual position reports as and when requested by the PZJA.

5.7 *Licence and endorsement conditions - obligations relating to interactions with certain species and communities*

- (1) The holder of a licence or treaty endorsement within the fishery 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:
 - (a) avoid interaction with the following:
 - (i) cetaceans ;
 - (ii) marine species listed for section 248 of the EPBC Act;
 - (iii) migratory species listed for section 209 of the EPBC Act;
 - (iv) threatened species listed for section 178 of the EPBC Act; and
 - (b) ensure that anything that may harm the marine environment is not disposed of at sea.
- (3) If the fishing activities undertaken on the boat result in an interaction with a species or community mentioned in subsection (2), the licence or endorsement holder must:
 - (a) record details of the interaction in a logbook kept for that purpose if they are required to provide information under section 14 of the Act; 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 the 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:
 - (i) discharge its carcass from the boat in a way that does not attract birds or mammals to the boat; or
 - (ii) if directed by the PZJA to retain carcasses for scientific purposes, retain the carcass and deal with it as the PZJA directs; 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 any requirement imposed by regulations made for the purposes of this section.

5.8 *Catch of by-product*

- (1) It is a condition of a TSFF licence or endorsement that:
 - (a) as set out in instruments under section 16 of the Act, the holder of the licence or endorsement does not possess more than the maximum amount of a finfish species for which the licence does not have an entry; and
 - (b) if a TAC is determined for a finfish species, the holder of the licence or endorsement who does not hold unused ACE for that species does not retain any of that species greater than the recreational bag limits provided for in the

Part 6 Miscellaneous

6.1 Boat lengths, observers and VMS

- (1) As set out in instruments under section 16 of the Act, the PZJA may:
 - (a) determine lengths for nominated boats; and
 - (b) decide that observers are required to be carried on nominated boats; and
 - (c) decide that a VMS is to be carried on nominated boats.
- (2) Before making a determination or decision under this section, the PZJA will consult TSFMAC.

6.2 Register

- (1) As well as the matters mentioned in section 10 of the Act, the Register must show particulars of:
 - (a) transfers and temporary transfers of licences, units of fishing capacity and ACE or AEE; and
 - (b) boats nominated under section 4.5; and
 - (c) any other information that the PZJA determines.

6.3 Licence Identification Cards

- (1) The PZJA may issue licence identification cards to licence holders.
- (2) A licence identification card will include the following details about the licence:
 - (a) the licence number; and
 - (b) the name of the licence holder or person acting on the holder's behalf; and
 - (c) the distinguishing number of the primary boat and the number of boats nominated against the licence; and
 - (d) all entries for the licence; and
 - (e) any other information the PZJA decides.

6.4 Reconsideration of decisions

- (1) In this section, **decision** means a decision of the PZJA:
 - (a) allocating units of fishing capacity under section 3.5; or
 - (b) refusing to register a transfer or temporary transfer under section 4.7; or
 - (c) nominating a boat under section 4.5.
- (2) A person affected by a decision may in writing request the PZJA to reconsider the decision.
- (3) The person must make the request within 28 days of the date of the decision.
- (4) 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.
- (5) The PZJA must notify the person in writing of its decision under subsection (4).

6.5 *Shark finning*

- (1) It is prohibited in the area of the fishery to remove the fins from a shark and discard the torso into the sea.
- (2) It is prohibited in the area of the fishery to remove the liver from a shark and discard the liver or the shark carcass into the sea.

6.6 *Transitional*

- (1) A TSFF licence in force immediately before the commencement date remains in force until the following 12 months after the commencement date.
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SCHEDULE 1

Section 1.4

Area of the fishery

THIS WILL BE REMOVED LATER IF IT'S REALLY NOT NEEDED

NOTE: The area of the Torres Strait Finfish¹ and Spanish Mackerel Fishery is as currently described in Schedule 2 of the *Torres Strait Fisheries Management Regulations 1985* and is included here for convenience:

The area of the finfish fishery is the area consisting of:

- (a) the area of waters in Protected Zone to the south of the Fisheries Jurisdiction Line;
- (b) the area of waters (excluding any waters within the limits of Queensland) bounded by a line beginning at the point of latitude 10°48'00" south, longitude 141°20'00" east and running progressively:
 - north along the meridian of longitude 141°20'00" east to its intersection with the parallel of latitude 10°28'00" south;
 - east along that parallel to its intersection with the meridian of longitude 144°00'00" east;
 - south along that meridian to its intersection with the parallel of latitude 10°41'00" south;
 - west along that parallel to its intersection with the meridian of longitude 142°31'49" east;
 - south along that meridian to its northernmost intersection with the coastline of Cape York Peninsula at low water;
 - generally south-westerly along the western coastline of Cape York Peninsula, that is along the low water line on that coast and across any river mouth, to its intersection with the parallel of latitude 10°48'00" south;
 - west along that parallel to the point where the line began; and
- (c) the territorial sea of Australia north of the Fisheries Jurisdiction Line.

The area of the Spanish Mackerel fishery is the area consisting of:

- (a) the area of waters in Protected Zone to the south of the Fisheries Jurisdiction Line;
- (b) the area of waters (excluding any waters within the limits of Queensland) bounded by a line beginning at the point of latitude 10°48'00" south, longitude 141°20'00" east and running progressively:
 - north along the meridian of longitude 141°20'00" east to its intersection with the parallel of latitude 10°28'00" south;
 - east along that parallel to its intersection with the meridian of longitude 144°00'00" east;
 - south along that meridian to its intersection with the parallel of latitude 10°41'00" south;
 - west along that parallel to its intersection with the meridian of longitude 142°31'49" east;
 - south along that meridian to its northernmost intersection with the coastline of Cape York Peninsula at low water;
 - generally south-westerly along the western coastline of Cape York Peninsula, that is along the low water line on that coast and across any river mouth, to its intersection with the parallel of latitude 10°48'00" south;

¹ In the Torres Strait Fisheries Regulations Finfish is the term used for what we call in these instructions the "reef line" fishery. The area for the Finfish fishery and the Spanish Mackerel fishery are the same in the Regulations.

- west along that parallel to the point where the line began; and
- (c) the territorial sea of Australia north of the Fisheries Jurisdiction Line.

SCHEDULE 2

Section 1.4

Area of the fishery expressed using coordinates based on WGS84

NOTE: For ease of use of navigational aids, the description of the fishery is also expressed in this Schedule by reference to WGS84. Any discrepancy between this description and the description in Schedule 1 is to be resolved by reference to Schedule 1.

Drafter note# 1: we have requested coordinates of the area of the fishery using WGS84. When this is available we will provide it. The drafter may consider if it is appropriate to provide the WGS84 coordinates in the management plan.

REFERENCE	LATITUDE	LONGITUDE	NOTES
####			

FINFISH MANAGEMENT PLAN EXPLAINED

PART 1 – PRELIMINARY	
Interpretation	Details how certain words and terms used in the management plan are to be interpreted.
Area of the fishery	Outlines the area of the Torres Strait Finfish Fishery including both the Reef Line and Spanish Mackerel Fisheries. The coordinates outlined in Schedule 1 have been converted so that they are compatible with datum used in GPSs (GDA94 which is equivalent to WGS84 used in GPSs).
Objectives	Outlines what the plan is trying to achieve, what arrangements are included in the plan to achieve the objectives and how the plan can be assessed with respect to meeting those objectives.
Reference points	<p>Allows for the PZJA, in consultation with the Finfish Working Group (FFWG) and the Torres Strait Fisheries Management Advisory Committee (TSFMAC), to identify points in some characteristic of the fishery that indicates that an objective is being met, or not. These points are termed Reference Points. Meeting a reference point would result in some agreed action to be taken as part of a harvest strategy.</p> <p>For example, a reference point may be reached when harvest reaches a certain amount. Once this point is reached a management response (eg quota introduced) will be triggered so that the harvest does not exceed sustainable levels.</p>
Who the management plan applies to	<p>The Finfish Management Plan will apply to all people licensed to take, carry or process fish in the area of the Torres Strait Finfish Fishery including:</p> <ul style="list-style-type: none"> • A Traditional Inhabitant holding a Traditional Inhabitant Boat (TIB) licence with an entry to fish for Reef Line or Spanish Mackerel; • A non-Traditional Inhabitant that leases a commercial fishing licence to fish in the Reef Line or Spanish Mackerel fisheries; • A person holding either a scientific or developmental research permit; and • A PNG fisher holding a Treaty endorsement that allows them to fish for finfish in the Australian area of jurisdiction.
Who the management plan <u>does not</u> apply to	<p>The Finfish Management Plan does not apply to:</p> <ul style="list-style-type: none"> • A person fishing recreationally for finfish or Spanish Mackerel (including charter fishers); and • Traditional Inhabitants in the course of traditional fishing.
PART 2 – FISHING IN THE FISHERY	
Who may fish in the fishery	A person may commercially fish in the fishery if they hold, or are acting on behalf of a person who holds, a licence with a

	<p>Reef Line or Spanish Mackerel entry. This could be:</p> <ul style="list-style-type: none"> • A Traditional Inhabitant of the Torres Strait; • A non-Traditional Inhabitant fisher who has leased a licence; • A PNG fisher who is cross-endorsed to fish in the Australian area of jurisdiction; • A person holding a scientific or developmental permit; or • If a quota management system is implemented, a person who holds unused units for the fishery.
What fish can be taken	<p>Outlines the species of fish that can be taken commercially in the Finfish Fishery (as listed in Fisheries Management Notices No.78 and 79).</p> <p>The species that can be taken has not changed under the plan.</p>
Prohibited fish species	<p>Outlines the species of fish that are prohibited to take commercially in the Finfish Fishery (as listed in Fisheries Management Notices No.78).</p> <p>The prohibited species has not changed under the plan.</p>
Size restrictions	<p>Outlines the maximum and/or minimum size limits for species of fish that can be taken commercially in the Finfish and Spanish Mackerel fisheries (as listed in Fisheries Management Notices No.78 and 79).</p> <p>The size restrictions species has not changed under the plan².</p>
Fishing methods	<p>Outlines the methods of fishing allowed to commercially fish for finfish or Spanish Mackerel.</p> <p>The fishing methods have not changed under the plan,</p>
Fishing season	<p>Will allow for the PZJA to set a fishing season.</p> <p>This will usually be from 1 July to 30 June each year.</p>
PART 3 – UNITS OF FISHING CAPACITY	
Determination of TAC/TAE	<p>This allows for the PZJA, acting on advice from the Finfish Working Group (FFWG) and the Torres Strait Fisheries Management Advisory Committee (TSFMAC), to implement a quota management system and determine an appropriate total allowable catch (TAC) or total allowable effort (TAE) for the fishery in any particular fishing season.</p> <p>Including this provision in the plan provides the PZJA with the option to introduce quota in the future if necessary. It does not mean that quota will be introduced on determination of the management plan.</p>
Changing TAC/TAE	<p>This provision allows for a TAC/TAE to be decreased or increased if quota is implemented in the future.</p> <p>A TAC/TAE could be changed if there was evidence that the fishery was over or under fished or if there was an immediate</p>

² Current proposed amendments to FMN 78 will introduce a maximum legal size limit for leopard/square tail coral trout.

	threat to stocks or the habitat.
Publication of TAC/TAE	Outlines the obligations of the PZJA in publishing the TAC/TAE or reporting changes to the TAC/TAE should they occur.
Allocation of Units of Fishing Capacity (UFC)	<p>This allows for the PZJA to determine the maximum units of fishing capacity (UFC) for the fishery and allocate UFC to fishers if a quota monitoring system is implemented in the future.</p> <p>UFC can only be held permanently by Traditional Inhabitant fishers or groups representing Traditional Inhabitant fishers. A non-Traditional Inhabitant fisher cannot hold UFC permanently.</p> <p>The provision does not define how UFC will be allocated to fishers but provides for the PZJA to consult with the TSFMAC in determining an appropriate allocation process.</p>
Determination of ACE/AEE	If a quota management system is implemented in the future, this provision allows the PZJA to determine the annual catch or effort entitlements (ACE or AEE) to be allocated to holders of UFC.
Transfer of Units of Fishing Capacity	<p>This allows for transferring UFC if a quota management system is implemented in the future. UFC can either be temporarily or permanently transferred to Traditional Inhabitant fishers, but can only be temporarily transferred to non-Traditional Inhabitant fishers.</p> <p>A Traditional Inhabitant may like to transfer UFC if they believe they are not going to use their quota or if they wish to exit the fishery.</p>
Transfer of ACE/AEE	<p>This allows for transferring ACE/AEE if a quota monitoring system is implemented in the future.</p> <p>ACE or AEE can be transferred to any licence holder as they are only valid for a fishing season, after which time they can no longer be used. ACE and AEE are not permanent entitlements in the fishery.</p> <p>Such transfers will be necessary if leasing of temporary licences (sunset licences) is to continue if quota is introduced.</p>
PART 4 – LICENCES	
Grant of licences and endorsements	<p>This states that a commercial fishing licence may be issued by the PZJA with the following conditions:</p> <ul style="list-style-type: none"> • A non-Traditional Inhabitant can only hold a temporary fishing licence; and • PNG boats can be endorsed to fish in the Australian area of jurisdiction under section 20 of the Act.
TSFF licences	States that a TSFF commercial fishing licence can only be granted to a Traditional Inhabitants of the Torres Strait or groups representing them.
Temporary licences	This states that a TSFF temporary commercial fishing licence can be granted to a person who is not a Traditional Inhabitant of the Torres Strait. These licences are only valid for a particular time and can not be permanently transferred. These licences

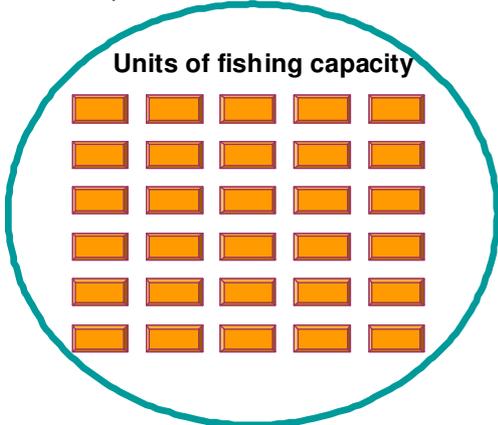
	are required to allow for leasing to non-islanders to occur.
Treaty endorsements	States that a Treaty endorsement can be granted to a PNG fisher to commercially fish for finfish in the Australian area of the PZJA as per obligations in the Torres Strait Treaty.
Nomination of a boat	<p>Outlines that a boat (primary or tender) can be nominated against a commercial fishing licence and the nominated boat may be changed.</p> <p>Nominated boats will be recorded on a register with the licence holder's details.</p>
Entries	<p>This states that the PZJA may make an entry into a licence granting a fisher to fish for either Reef Line or Spanish Mackerel.</p> <p>It also states that the PZJA may limit the number of entries available for allocation to these fisheries, but will consult the TSFMAC in making this decision.</p>
Transfer of licences	<p>This allows TSFF licence holders (whether they hold a licence permanently or temporarily) to transfer their licence to another person under the following conditions:</p> <ul style="list-style-type: none"> • A TSFF licence can only be transferred to a Traditional Inhabitant or group that represents Traditional Inhabitants who live in the Torres Strait Protected Zone; and <p>A temporary licence can be transferred to a person or group who is not a Traditional Inhabitant of the Torres Strait.</p>
Primary and tender boats	<p>This allows licence holder's to take, process and transfer product between the primary and tender boats nominated against their licence.</p> <p>It also states that primary boats must be marked with a distinguishing number followed by the letter 'T' and the number of tenders attached to their licence. For example, FVXX-T(3).</p> <p>All tenders are required to display the primary boats distinguishing number followed by the letter 'T' and then the unique tender number. For example, FVXX-T(1); FVXX-T(2) etc.</p> <p>This also allows the PZJA, in consultation with the TSFMAC, to determine the maximum number of tenders for each licence and the whole fishery.</p>
Scientific or developmental permits	This provision allows for scientific or developmental permits to be issued by the PZJA with conditions.
PART 5 – LICENCE AND ENDORSEMENT CONDITIONS	
General conditions	<p>This provision outlines the general conditions that a licence holder must comply with including:</p> <ul style="list-style-type: none"> • All of the provisions within the management plan; • The regulations that apply to the fishery; • The provision in the <i>Torres Strait Fisheries Act 1985</i>;

	<ul style="list-style-type: none"> • Any instruments made under section 16 of the Act; • Any other condition listed on a licence or endorsement; • The requirement to maintain a logbook and participate in the observer program if implemented in the fishery; • The use of VMS if required; • Reducing impacts to the marine environment; • Providing access to biological, economic or technical information, or biological samples if requested by the PZJA; • Carrying an identification card issued by the PZJA; and • Selling fish only to a licensed fish receiver.
Logbook conditions	This allows the PZJA to determine a form of logbook for use in the fishery and imposes an obligation on licence or endorsement holders to complete the logbook if introduced.
Quota monitoring system conditions	This allows the PZJA to determine a quota monitoring system if a quota management system is implemented into the fishery.
Observer conditions	<p>This provision outlines the conditions that licence or endorsement holders need to comply with if an observer program is implemented into the fishery including:</p> <ul style="list-style-type: none"> • Carrying an observer on board; • Allowing the observer to carry safety and monitoring equipment on board; • Allowing the observer to collect scientific, developmental and management information; • Providing the observer with access to all parts of the boat and use of all equipment necessary for undertaking their duties; and • Providing reasonable accommodation.
Vessel monitoring system conditions	<p>This provision sets out the conditions that licence or endorsement holders need to comply with if a vessel monitoring system (VMS) is implemented into the fishery including:</p> <ul style="list-style-type: none"> • Ensuring that an approved VMS is fitted and installed in accordance with guidelines published by the PZJA; • Operating the VMS continuously and in accordance with the manufacturer's operating instructions; • Not leaving port if the VMS is not functioning; and • If out at sea, reporting any malfunction in the VMS and complying with any instructions from the PZJA including the providing manual positions reports.
Species interaction conditions	This provision ensures that interactions with species such as cetaceans (whales and dolphins), marine, migratory or threatened species is kept to a minimum and reported to the PZJA as per the obligations under the <i>Environment Protection</i>

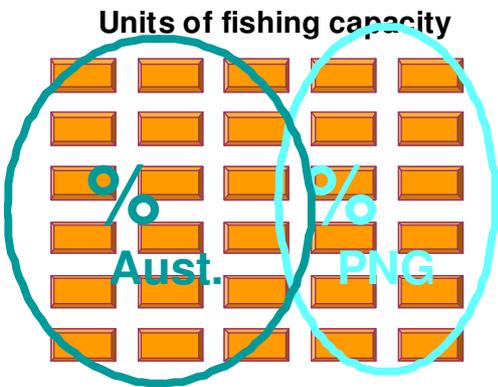
	<p><i>Biodiversity Conservation Act 1999</i>. This also includes ensuring that anything harmful to the marine environment is not disposed of at sea.</p> <p>It also outlines the process for reporting and dealing with species interactions.</p>
Catch by-product	<p>Outlines the rules associated with by-catch and states that a licence holder with a Reef Line or Spanish Mackerel entry cannot take more than an allowed amount of fish that they do not hold an entry for.</p> <p>For example, a person licensed to fish for Spanish Mackerel (and not reef fish) cannot take more than 20kg of finfish in any form at any one time.</p>
PART 6 – MISCELLANEOUS	
Register	Allow for the PZJA to implement a register to show details of licence holders as determined by the PZJA.
Licence ID cards	<p>This allows for the PZJA to issue identification cards to licence holders</p> <ul style="list-style-type: none"> • licence holders or agent/s name/s • licence number, • distinguishing number • number of boats attached to the licence • entries attached to the licence
Reconsideration of decisions	<p>This allows for a licence holder to request that the PZJA reconsider a decision within 28 days of the decision being made.</p> <p>If a request is made, the PZJA must reconsider the decision within 2 months of the request being made and they must confirm or revoke and make another decision.</p>
Shark finning	<p>This states that licence holders are prohibited from:</p> <ul style="list-style-type: none"> • removing the fins from a shark and discard the torso into the sea. • removing the liver from a shark and discarding the carcass into the sea. If a liver is removed from a shark, it must be landed along with the carcass. <p>The restrictions on shark finning have not changed under the Finfish Management Plan.</p>
Exemptions	Traditional fishing is exempt from any regulation under this plan.
Transitional	States that all licences issued prior to the commencement of the management plan will remain in force for a period up to 12 months after the commencement of the plan.

How do Units of Fishing Capacity and quota work.

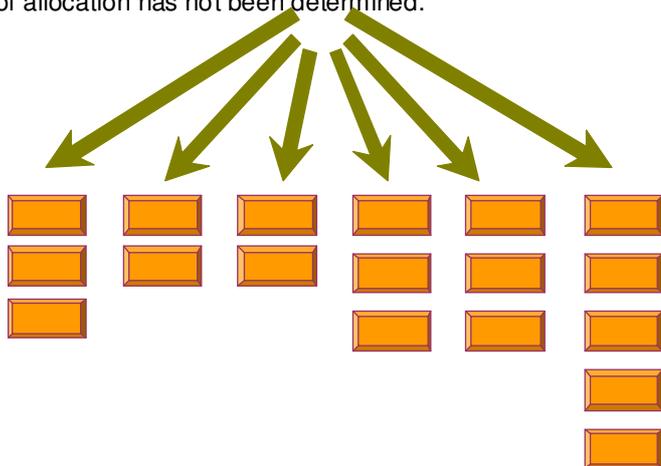
1) A total number of units of fishing capacity (UFC) would be determined for the fishery at the time quota is introduced.



2) A percentage of the UFC would be held aside to provide for PNG as per their Treaty entitlement. This will define what each country's Total Allowable Catch (TAC) or Total Allowable Effort (TAE) is.



3) The Australian UFC could then be allocated to individual fishers, communities or other groups representing Traditional Inhabitants. UFC would be allocated as ACE or AEE. The method of allocation has not been determined.



How much quota does each person get?

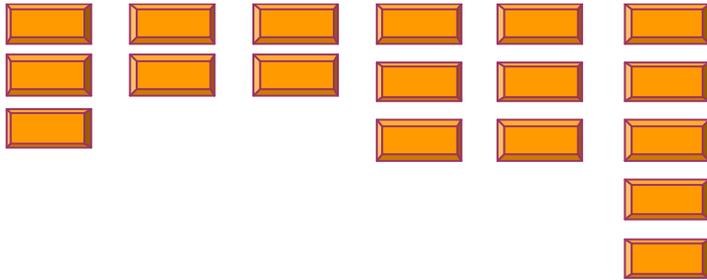
1) For each fishing season the value of each unit will be determined depending on what the Total Allowable Catch (TAC) or Total Allowable Effort (TAE) is.

 = X kg or X days

2) At the beginning of a fishing season, each holder of UFC will be allocated Annual Catch Entitlements (Kilograms of catch) or Annual Effort Entitlements (number of days) based on the value of the unit and the number of units they hold.

For example if each unit was valued at 1 tonne

Holder 1 Holder 2 Holder 3 Holder 4 Holder 5 Holder 5



Holder 1	Holder 2	Holder 3	Holder 4	Holder 5	Holder 5
ACE =					
3 tonne	2 tonne	2 tonne	3 tonne	3 tonne	5 tonne

3) Each holder would have until the end of the season to use their ACE. At the end of the season the ACE would become invalid.

4) The following season, a new lot of ACE (or AEE) would be provided to holders.

For example

For a fish species Freshfish, a quota system is implemented and 10000 Units of Fishing Capacity is determined for the fishery for this fish.

	Total # UFC	TAC	Value of each UFC	Total ACE
Season 1	10000	100000kg	100000/10000 =10kg	100 tonnes
Season 2	10000	70000 kg	70000/10000 =7kg	70 tonnes
Season 3	10000	50000 kg	50000/10000 =5kg	50 tonnes

For a holder of UFC:

	Holder 1	Holder 2	Holder 3	Holder 4
Season 1	Holds 300	Holds 200	Holds 500	Holds 200
Quota	Units	Units	Units	Units
Implemented	ACE: 300x10 =3000 kgs	ACE: 200x10 =2000 kgs	ACE: 500x10 =5000 kgs	ACE: 200x10 =2000 kgs
Season 2	Holds 300	Holds 200	Holds 500	Holds 200
	Units	Units	Units	Units
	ACE: 300x7 =2100 kgs	ACE: 200x7 =1400 kgs	ACE: 500x7 =3500 kgs	ACE: 200x10 =2000 kgs
Season 3	Holds 300	Holds 200	Holds 500	Holds 200
	Units	Units	Units	Units

	ACE: 300x5 =1500 kgs	ACE: 200x5 =1000 kgs	ACE: 500x5 =2500 kgs	ACE: 200x5 =1000 kgs
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FINFISH WORKING GROUP	Meeting # 2010.1 31 March 2010
Management Plan Objectives and Assessment	<i>Agenda Item No. 3.2</i> FOR DECISION

Recommendation

That the FFWG **AGREE** on the management objectives and assessment strategies for inclusion in the Draft Finfish Management Plan.

Background

In May 2007 the Finfish Working Group (FFWG) discussed the importance of clear management objectives and agreed on draft objectives and performance criteria to measure the success of management strategies in meeting those objectives. The Working Group also agreed to propose trigger reference points and assessment periods for the plan (FFWG May 07; 5.6).

In July 2009 the FFWG noted that the objectives that had been previously discussed were no longer relevant for inclusion in the revised Finfish Management Plan. Therefore, the Working Group made a number of amendments to the objectives to better reflect the revised focus of the management plan. The FFWG agreed in principle to the Finfish Management Plan Objectives and Performance Indicators provided in Table 1 (Attachment 3.2A).

Discussion

The management objectives agreed to by the Working Group in July 2009 have been refined for inclusion into the Draft Finfish Management Plan. Appropriate measures to be monitored to assess the success of identified management strategies in meeting the objectives have been developed.

The Working Group is requested to consider the refined management objectives, and performance criteria in the Draft Finfish Management Plan for their inclusion in the draft management plan.

After the management plan is implemented the PZJA, in consultation with the FFWG and TSFMAC, will be required to develop a harvest strategy for the fishery. A harvest strategy sets out:

- The management actions necessary to achieve the biological and economic objectives;
- A process for monitoring the condition of the fishery; and
- Rules (or reference points) that control the intensity of fishing activity and trigger agreed management responses if harvest reaches a certain level.

A harvest strategy is important as it ensures the fishery is fished within sustainable limits. Discussions regarding the detail of a harvest strategy for the Finfish Fishery are not necessary at this meeting, but will be required in the future.

Financial Impact

The performance criteria identified in Attachment 3.2A are considered to be within the current level of monitoring of the fishery and included in current budgets. Identification of additional performance criteria with additional monitoring requirements or more regular assessment periods would require additional budget.

ATTACHMENT 3.2A

Table 1: Draft management objectives, management strategies and performance measure of the Finfish Management Plan

Management Object	Management Criteria	Performance Measures	Assessment period
1. To acknowledge and protect the traditional way of life and livelihood of Traditional Inhabitants, including their rights in relation to traditional fishing for finfish.	<p>A) Regulations on the taking, processing and carrying of finfish for commercial purposes.</p> <p>B) Quota Management System (output control)</p> <p>C) Quota may be aside to ensure that this objective is met.</p>	<p>i) Total commercial catch of target and non-target species or species groups;</p> <p>ii) Noting that the Torres Strait Fisheries Act does not have any jurisdiction over recreational or charter fishing in Torres Strait; PZJA agencies to monitor reported catch of charter boat operations and recreational fishing if data is available from external sources;</p> <p>iii) Estimated subsistence catch of finfish if data is available from external sources.</p>	<p>i) yearly</p> <p>ii) 2-3 years</p> <p>iii) 2-3 years</p>
2. Harvest levels are at, or below levels that maintain biologically viable stocks of target and non-target species.	<p>A) Regulations on the taking, processing and carrying of finfish (gear, size and area restrictions, take and carry limits).</p> <p>B) Quota Management System (output control).</p>	<p>i) Total catch of target species or species groups;</p> <p>ii) Total catch of non-target species or species groups;</p> <p>iii) Total catch (all species).</p>	<p>i) yearly</p> <p>ii) yearly</p> <p>iii) yearly</p>
3. To provide for the use and conservation of Torres Strait Finfish resources in a way that minimises impact on the marine environment.	<p>A) Regulations on the taking, processing and carrying of finfish for commercial purposes (gear restrictions, area and seasonal closures).</p> <p>B) Obligations relating to interactions with</p>	<p>i) Number of species and/or community interactions recorded;</p> <p>ii) Total catch of target and non-target</p>	<p>i) yearly</p> <p>ii) yearly (if quota is</p>

	certain species and communities. C) Quota Management System (output control).	species or species group.	implemented)
4. To optimise economic viability of the fishery.	A) Transferability of licenses. B) Transferability of Units of Fishing Capacity and fishing catch or effort entitlements (if Quota Management System is implemented). C) Allow for non-Traditional Inhabitant fishers to hold a temporary licence (sunset licence) and fish in the fishery.	i) Total number of licenses; ii) Total number of Units of Fishing Capacity and fishing catch or effort entitlements transferred per fishing season (if Quota Management System is implemented); iii) Total weight of quota species issued to temporary licence holders per fishing season.	i) yearly ii) yearly (if quota is implemented) iii) yearly (if quota is implemented)
5. To provide for optimal utilisation, cooperative management, and for catch sharing to occur with PNG.	A) Allow for PNG licence holders to be issued cross endorsement for the fishery. B) Conditions on PNG cross endorsements are complementary to TSFF licence holders	i) Cross endorsements issued to PNG, if requested, in a timely manner. ii) Conditions on Cross endorsements issued are consistent with Treaty obligations. iii) PNG invited to participate in management discussions for the fishery through bi-lateral meetings and other meetings as appropriate. iv) PNG provides catch and effort information for PNG fishers in the protected zone.	i) yearly ii) yearly iii) yearly iv) yearly

FINFISH WORKING GROUP	Meeting# 2010.1 31 March 2010
DRAFT FINFISH MANAGEMENT PLAN Timeline for Implementation	Agenda Item No. 3.4 FOR NOTING

Recommendation

That the FFWG **NOTE** the proposed time line for implementation of a Finfish Management Plan.

Task	Due date
Agreement on Plan outline (TSFMAC)	Completed [‡]
Draft Finfish Management Plan developed	Completed
Draft Management Plan considered by FFWG	31/03/2010
Draft Management Plan approved by PZJA (OOS) for public consultation	April/May 2010
Draft Management Plan released for public consultation	May-June 2010
Public comments considered and amendments made to Management Plan where required	July 2010
Regulatory impact statement and Strategic assessment	July 2010
PZJA approves final management plan	End July 2010
Management Plan tabled in Parliament	August 2010
Management Plan commences	July 2011

Dates are indicative and will be dependant on progress of previous steps.

Financial Impact

Nil.

[‡] The TSFMAC identified a number of provisions included in the Plan outline that were subject to additional CFG consultation as described in Agenda item 2.1.