

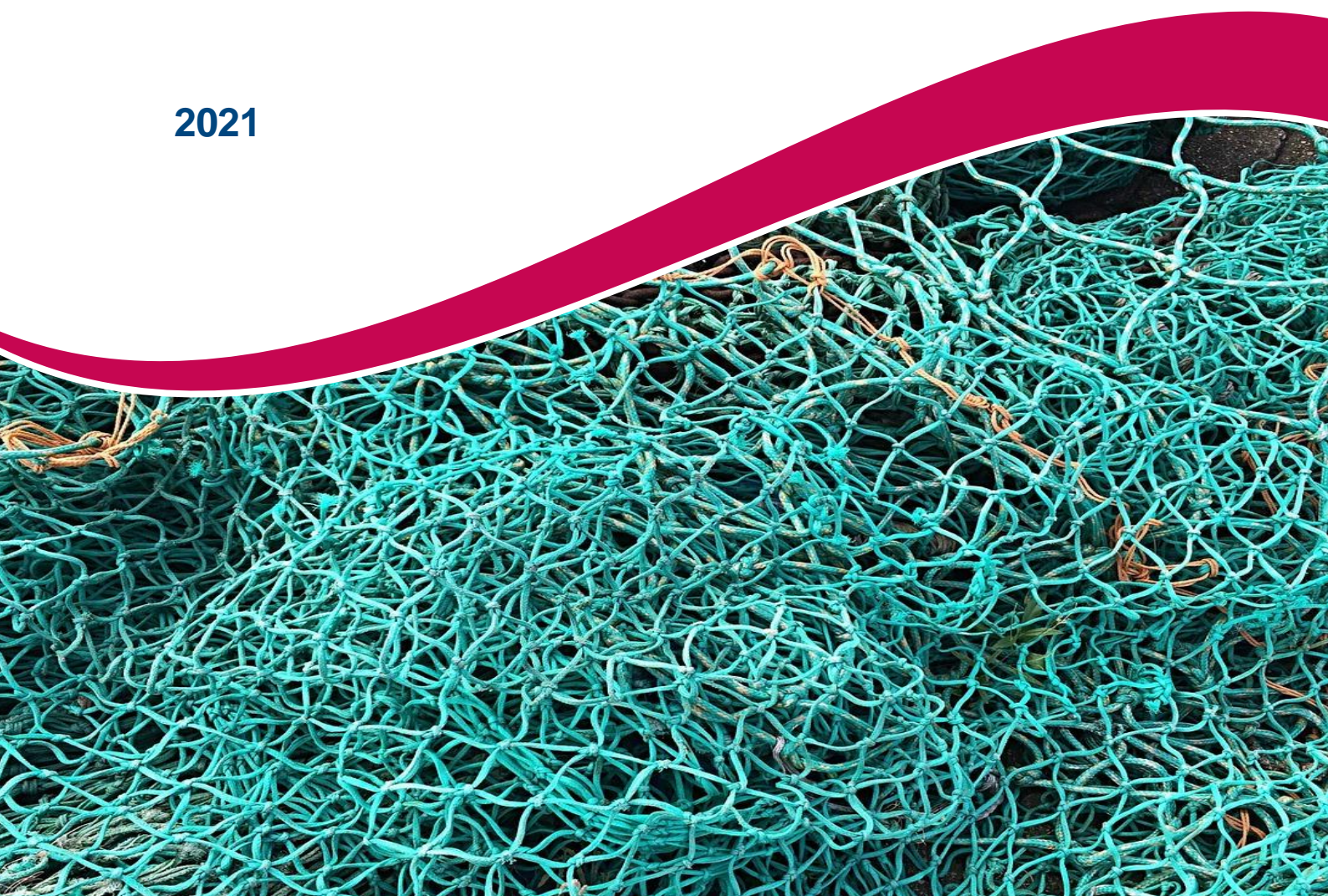


**Australian Government**

**Australian Fisheries Management Authority**

# **Guide to Licensing Arrangements in the Torres Strait**

**2021**



## Contents

About this document .....	3
AFMA contacts .....	3
Key acronyms .....	4
Key definitions .....	4
1 Introduction .....	5
1.1 Background .....	5
1.2 Types of licences .....	6
1.3 Specified fisheries .....	7
1.4 Traditional fishing .....	7
1.5 Limited entry .....	7
1.6 Eligibility for licences .....	7
1.7 Australian boats .....	8
2 Fishing licences .....	8
2.1 Traditional Inhabitant Fishing Licences .....	8
2.2 Fishing Boat Licences .....	8
2.3 Sunset Licences .....	9
3 Processor / carrier licences .....	9
3.1 Carrier Licence Class A .....	9
3.2 Carrier Licence Class B .....	10
3.3 Carrier Licence Class C .....	10
4 Master Fisherman's Licences .....	10
5 Fish Receiver Licences .....	11
6 Renewal of licences .....	11
7 Authorised agents .....	11
8 Quota and effort unit management .....	12
8.1 Prawn Fishery .....	12
8.2 Tropical Rock Lobster Fishery .....	12
9 Boat length rules .....	13
9.1 Maximum length for all boats .....	13
9.2 Maximum length for Bêche-de-mer Fishery and Crab Fishery .....	13
9.3 Replacement boat length rules .....	13
10 Scientific and development permits .....	14
10.1 Scientific Permits .....	14
10.2 Developmental Permits .....	14
11 Cross endorsement .....	14

## About this document

This document details the current licensing arrangements used to administer fisheries within the Protected Zone.

This document is general in nature and does not replace detailed advice specific to individual circumstances. All individual circumstances not covered in this document should continue to be referred to the Australian Fisheries Management Authority (AFMA) as licensing delegate of the Protected Zone Joint Authority (PZJA). Applicants for Torres Strait licences are strongly encouraged to seek their own independent advice on the required licensing package for their operation.

The information in this Guide in no way limits the powers and decisions of the PZJA and its delegates in its determinations, or in its considerations of any matters placed before it. Individuals who wish to take part in the Torres Strait fisheries should be aware that the powers are vested with the PZJA and its delegates to consider each application on its individual merits.

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## Key acronyms

AFMA	Australian Fisheries Management Authority
PZJA	Protected Zone Joint Authority
TSFA	<i>Torres Strait Fisheries Act 1984</i>
TSRA	Torres Strait Regional Authority

## Key definitions

The definitions below are simplified definitions to assist with understanding this guide. Where a term is defined in the *Torres Strait Fisheries Act 1984* (TSFA), that definition is the formal definition.

**Commercial fishing:** Fishing for commercial purposes.

**Community fishing:** Commercial fishing by traditional inhabitants who are not under an obligation to act in accordance with the directions of someone who is not a traditional inhabitant.

**Dinghy:** A fishing boat that is only authorised to operate alone.

**Fishery entry:** An authorisation on a licence that dictates which fisheries a licence can be used in.

**Fish receiver:** A person who holds a Fish Receiver Licence that authorises them to receive commercially caught product from Torres Strait fisheries.

**Length of boat:** The overall length of a boat as defined in the *Shipping Registration Act 1981* (s 10).

**Primary boat:** A fishing boat that is authorised to fish in conjunction with tender boat(s).

**Tender boat:** A fishing boat measuring 6 metres or less in length that must operate in conjunction with a primary boat and has the same boat mark as the primary boat.

**Traditional fishing:** Fishing by traditional inhabitants for their own or their dependants' consumption or for use in the course of other traditional activities.

**Traditional Inhabitant:** A person who satisfies the criteria of the traditional inhabitant ID Form and continues to reside in the TSPZ or adjacent coastal area.

# 1 Introduction

## 1.1 Background

The *Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters* (the Treaty) defines the border between Australia and Papua New Guinea (PNG) and provides a management framework of the common border area. This area is defined by the Treaty and is known as the Protected Zone. Australia and PNG established the Protected Zone with the principal purpose of acknowledging and protecting the traditional way of life and livelihood of the traditional inhabitants of both Parties, including their traditional fishing and free movement. A further purpose is to protect and preserve the marine environment and indigenous fauna and flora in, and in the vicinity of, the Protected Zone.

The management of Protected Zone commercial fisheries in areas of Australian jurisdiction is subject to the *Torres Strait Fisheries Act 1984 (Cth)* (the TSFA). The TSFA gives effect, in Australian law, to Australia's obligations under the Treaty as they relate to fisheries. Section 30 of the TSFA establishes the Protected Zone Joint Authority (PZJA), which consists of the Commonwealth Minister administering the TSFA (the Minister), the Queensland Minister administering the laws of Queensland relating to marine fishing in the Protected Zone; and the Chairperson of the Torres Strait Regional Authority (TSRA), which is the Commonwealth agency established under the *Aboriginal and Torres Strait Islander Act 2005* that represents the interests of Torres Strait Islanders.

The PZJA is supported by four government agencies (known as 'PZJA agencies') - the Australian Fisheries Management Authority (AFMA), the Commonwealth Department of Agriculture, Water and the Environment (DAWE), the Queensland Department of Agriculture and Fisheries and the TSRA. AFMA is responsible for providing day to day fisheries management services for the PZJA including compliance and licencing.

Individuals or companies engaged in commercial fishing, carrying and/or processing commercial catch or receiving commercial catch from within areas of Australian jurisdiction of the Protected Zone must hold all relevant licences with the appropriate fishery entries. The fishing rules, or management arrangements, for each PZJA fishery are set out in legislative instruments and licence conditions.

## 1.2 Types of licences

There are several types of licences issued under the TSFA. Broadly, the licence types are:

Licence type	Activities allowed under the licence	Categories
Fishing licences	Commercial fishing	<ul style="list-style-type: none"> <li>Traditional Inhabitant Fishing Licences – for traditional inhabitants only</li> <li>Fishing Boat Licences – for traditional and non-traditional inhabitants</li> <li>Sunset Licences – for commercial fishing by non-traditional inhabitants in the Reef Line Fishery and the Spanish Mackerel Fishery</li> </ul>
Carrier licences	Carry and/or process commercial catch from another boat	<ul style="list-style-type: none"> <li>Class A – for a primary boat to process and carry catch from the associated tender boats</li> <li>Class B – for carrying catch taken by other boats but not processing</li> <li>Class C – for processing and carrying catch taken by other boats</li> </ul>
Master Fisherman's Licences	To be in charge of a boat with a Fishing Boat Licence or Sunset Licence	<ul style="list-style-type: none"> <li>Traditional inhabitants</li> <li>Prawn Fishery</li> <li>Licences issued on or before 01 January 1988</li> <li>Licences associated with specific boats</li> <li>Licences associated with Sunset Licences</li> </ul>
Fish Receiver Licences	Receive commercial catch	n/a
Scientific Permits	Engage in scientific activities	n/a
Development Permits	<p>Assess the commercial viability of a fishery, fishing activities, boats or equipment</p> <p>Alternatively for a non-traditional inhabitant to provide on board training or advice to traditional inhabitants</p>	n/a

## 1.3 Specified fisheries

A fishery entry on a licence authorises the licence holder to fish in a specific fishery. A licence holder cannot fish in a fishery unless the licence has an entry for that fishery.

The Torres Strait commercial fisheries are:

- Bêche-de-mer Fishery (BD)
- Crab Fishery (CB)
- Pearl Shell Fishery (PL)
- Prawn Fishery (PR)
- Reef Line Fishery (LN)
- Spanish Mackerel Fishery (MK)
- Trochus Fishery (TR)
- Tropical Rock Lobster Fishery (CR)

## 1.4 Traditional fishing

Licences are not required for traditional fishing. Traditional fishing is the taking of living natural resources (including fish, turtles and dugong) by traditional inhabitants for their own, or their dependants' consumption, or for use in the course of other traditional activities. Product taken in the course of traditional fishing cannot be for sold. Traditional inhabitants of both PNG and Australia may undertake traditional fishing activities in both the Australian and PNG waters of the Protected Zone.

## 1.5 Limited entry

Commercial fishing in the TSPZ is an important economic activity for traditional inhabitants. The PZJA seeks to maximise the opportunities for traditional inhabitants to participate in all sectors of the fishing industry. As a result, where there is scope for expansion of effort in Torres Strait fisheries, the PZJA has reserved expansion for traditional inhabitants. With the exception of Sunset licences that are issued to the TSRA, new fishing licences issued under s19(2) of the TSFA are only granted to traditional inhabitants.

## 1.6 Eligibility for licences

Traditional Inhabitant Fishing Licences can only be granted to an individual or partnership of individuals who are verified traditional inhabitants. The licences cannot be granted to a company or trust. Master Fisherman's Licences can only be granted to individuals who are Australian citizens with all other licences only able to be granted to Australian citizens and Australian companies

## 1.7 Australian boats

All boats nominated on fishing or carrier licences described below must be Australian boats as defined in the TSFA with the exception of Papua New Guinea boats that are nominated on a treaty endorsement in accordance with Article 26 of the Treaty.

# 2 Fishing licences

## 2.1 Traditional Inhabitant Fishing Licences

Traditional Inhabitant Fishing Licences allow eligible traditional inhabitants to fish commercially with or without the use of a boat. The licence holder and all persons fishing under the licence, including all crew, must be traditional inhabitants.

When granted to authorise commercial fishing with the use of a boat, the licences are referred to as Traditional Inhabitant Fishing Boat (TIB) Licences.

Traditional Inhabitant Fishing Licences can be authorised for any relevant Protected Zone commercial fishery except the Prawn Fishery. Traditional inhabitants can only access the Prawn Fishery through a Fishing Boat Licence.

Where a Traditional Inhabitant Fishing Licence is issued with the use of a boat, the licence holder (or one person within a partnership holding the licence) must own the boat nominated on the licence. When applying for a licence or nominating a boat for the first time, applicants must declare proof of ownership, such as a bill of sale, and may later be required to provide further proof of ownership.

There is no limit on the number of new Traditional Inhabitant Fishing Licences granted. However, licences can be transferred between eligible traditional inhabitants. Where a boat is nominated on the licence, the transferee must either be the owner of the boat nominated on the licence or apply to replace the boat with one that they own.

## 2.2 Fishing Boat Licences

Fishing Boat Licences (commonly referred to as transferable vessel holder or TVH licences) allow traditional and/or non-traditional inhabitants to fish commercially on the nominated boat. No new Fishing Boat Licences are being granted. A Fishing Boat Licence can be obtained by either temporarily or permanently transferring an existing licence. A licence that forms part of a primary-tender operation can only be transferred as a package with all associated licences.

AFMA may consider applications to vary primary-tender packages in the Tropical Rock Lobster Fishery to allow for the temporary reassignment of tender boats between primary boats. Applications will be considered on a case by case basis and all licences involved must be held by the same licence holder. In assessing applications AFMA will consider whether the variation will

result in an overall reduction in the number of fishing boat licence able to fish and the current maximum number of tenders on any primary boat for that fishery.

Fishing Boat Licence are authorised for one or more of the following fisheries:

- Prawn Fishery
- Tropical Rock Lobster Fishery
- Bêche-de-mer Fishery
- Pearl Shell Fishery

In line with the limited entry policy, no new fishery entries can be added to a Fishing Boat Licence.

## 2.3 Sunset Licences

Access to the Reef Line Fishery and Spanish Mackerel Fishery is reserved for traditional inhabitants. However, the PZJA introduced Sunset Licences to allow non-traditional inhabitants seasonal access to fish in these fisheries while there is capacity in the fishery to do so.

The TSRA may, on behalf of traditional inhabitants, lease (temporarily transfer) these Sunset Licences, with specified catch amounts, to non-traditional inhabitants for a limited period of time. Sunset Licences are granted and varied by AFMA. The temporary licence holder cannot transfer the licence.

## 3 Processor / carrier licences

To carry and/or process and carry fish taken by another boat, a person or company must hold the relevant classes of carrier licences. The classes are Class A, Class B and Class C as described below. Unless exempted by AFMA in writing, the holder of a Class B or Class C carrier licence is also required to hold a Fish Receiver Licence in order to receive fish from licenced fishers (see Section 5).

### 3.1 Carrier Licence Class A

These licences authorise the use of the nominated primary boat for carrying and processing fish taken from tender boats included in the same licence package. All primary boats operating in conjunction with tender boats must have an associated Class A carrier licence. These licences are only granted to primary boats operating in conjunction with tender boats. Class A licences can be authorised for any commercial fishery that the primary boat is authorised for. When held by a non-traditional inhabitant, the licences can only be transferred as a package with the associated fishing licences.

## 3.2 Carrier Licence Class B

Class B carrier licences authorise the use of a nominated boat to carry fish taken with the use of another licensed boat. It does not authorise processing the fish in any way. New Class B carrier licences will normally only be issued to licensed fishing vessels in the Torres Strait or boats which are legitimate cargo vessels (i.e. meeting cargo vessel survey certificate requirements). The one exception is for pearl shell where new carrier licences are still issued. The licences are non-transferable.

## 3.3 Carrier Licence Class C

Class C carrier licences authorise the use of a nominated boat to carry and process fish taken with the use of another licensed fishing boat. Fishing is not permitted from boats with this licence. Carrier Class C boats are not permitted to transport other fishing boats to and from fishing grounds or accommodate fishers. New Class C carrier licences are only granted to traditional inhabitants who own the boat nominated on the licence. The licences are transferable, except that a traditional inhabitant cannot transfer their licence to a non-traditional inhabitant.

# 4 Master Fisherman's Licences

A Master Fisherman's Licence (also known as a TMJ licence) must be held by the person in charge of the boat nominated on a Fishing Boat Licence or Sunset Licence. However, for each primary boat, one Master Fisherman's Licence can be counted towards both the primary boat and one tender boat if the two boats do not fish simultaneously. Master Fisherman's Licences are not required for the person in charge of the boat nominated on a Traditional Inhabitant Fishing Boat Licence, however a traditional inhabitant may be granted a Master Fisherman's Licence to be in charge of a boat nominated on a Fishing Boat Licence.

Master Fisherman's Licences are granted to individuals and are non-transferable.

There are five categories that define the eligibility criteria for Master Fisherman's Licences.

- **Traditional Inhabitants:** New Master Fisherman's Licences may be granted to traditional inhabitants for use on any boat in any fishery.
- **Prawn Fishery:** New Master Fisherman's Licences may be granted to non-traditional inhabitants for use only in the Prawn Fishery.
- **Sunset Licences:** New Master Fisherman's may be granted for use on specified boats nominated on Sunset Fishing Licences.
- **Held since 1988:** Non-traditional inhabitants who have held a Master Fisherman's Licence continuously since on or before 1 January 1988 may continue to use their licence on any boat, subject to the fishery entries on their licence.
- **Specified boats:** These Master Fisherman's Licences can only be used on a specified primary boat or one of its associated tender boats. A replacement Master Fisherman's Licence may be granted specifying a new person, where the original licence is first surrendered and the new person is nominated by the associated fishing licence holder.

A temporary Master Fisherman's Licence may be granted for a limited period of time to a non-traditional inhabitant to be in charge of a primary boat for compassionate and extenuating reasons.

## 5 Fish Receiver Licences

Commercial catch taken in all commercial fisheries, except the Prawn Fishery, must be unloaded to the holder of a Fish Receiver Licence. This includes when it is brought onto land or unloaded to a boat with a Class B or Class C carrier licence.

Where the boat nominated on a Class B carrier licence is a legitimate commercial cargo vessel, the applicant may apply to AFMA to be able to carry fish caught by another boat that have not been unloaded to a fish receiver. Applications will be assessed on a case-by-case basis. Fishers unloading to a licenced carrier boat with this exemption must ensure their product is transported directly to a licensed fish receiver.

Individuals and companies receiving commercial catch that has not already been received must hold a Fish Receiver Licence, or be the authorised agent of a person who holds a Fish Receiver Licence. Catch disposal records must be completed immediately upon receipt of the fish. Fish receivers must only receive product from licensed Torres Strait commercial fishers.

## 6 Renewal of licences

Master Fisherman's Licences are granted for five years when they are granted to traditional inhabitants or for use in the Prawn Fishery only. All other licences are granted for 12 months.

Licence holders can apply to renew a licence no later than three months after it expires. However, once the licence has expired, fishing cannot be undertaken until it has been renewed.

## 7 Authorised agents

An authorised agent is a person that a licence holder can nominate to undertake logbook, catch disposal records or certain licence functions on behalf of that licence holder. In doing so the licence holder will be bound by any acts or omissions of the agent/s.

Agents may be one or more of the following types:

- **Logbook Agent:**  
A logbook agent may submit paper and electronic catch data on your behalf (i.e. Daily Fishing Logbooks or Catch Disposal Records). Logbook agents cannot access your licensing information.
- **Licensing Agent:**

A licencing agent may administer licensing tasks, including licence renewals, seasonal transfers (leases), monitor quota holdings and enquiries relevant to your licence. The agent cannot undertake permanent transfers unless specifically authorised by the licence holder.

- **Primary Agent:**

A primary agent is able to act as or nominate Licencing Agents and Logbook Agents. The agent cannot undertake permanent transfers unless specifically authorised by the licence holder.

## 8 Quota and effort unit management

The TSFA provides for granting units of fishing capacity, which can be either quota units or effort units. The Prawn Fishery is managed through effort units and the Tropical Rock Lobster Fishery is managed through quota units. These fisheries have specific licencing requirements related to the effort and quota unit systems.

### 8.1 Prawn Fishery

In the Prawn Fishery, units of fishing capacity are translated to fishing days that can be used only in a given fishing season.

Fishing days are tradeable (they can be temporarily or permanently transferred) between holders of fishing licences that are authorised to fish in the Prawn Fishery. A temporary transfer does not change the ownership of the fishing days and only has effect during the current fishing season.

Fishing days for the Prawn Fishery cannot be held without a fishing licence with an entry for the Prawn Fishery. If a licence holder transfers their last licence with an entry for the Prawn Fishery, they must also transfer their remaining entitlement of days.

### 8.2 Tropical Rock Lobster Fishery

The Tropical Rock Lobster Fishery (TRL Fishery) is managed through a quota management system under the *Torres Strait Fisheries (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2018*.

Individual quota units are tradeable (they can be temporarily or permanently transferred) with the exception of the units held by the TSRA for the benefit of the traditional inhabitant sector which cannot be permanently transferred. A temporary transfer does not change the ownership of the quota and only has effect during the current fishing season.

Non-traditional inhabitants fishing for tropical rock lobster must hold unused quota. Traditional inhabitants must either hold unused quota units individually or be fishing unused quota units held by the TSRA on behalf of the traditional inhabitant sector.

A person can hold tropical rock lobster quota units without a fishing licence, however a fishing licence is required should they want to fish those units themselves.

## 9 Boat length rules

### 9.1 Maximum length for all boats

A maximum boat length of 20 m applies to all fishing and carrier licences. Exemptions may be provided where the boat is a legitimate commercial cargo vessel and is nominated on a Class B carrier licence. Some fisheries have additional restrictions as outlined below.

### 9.2 Maximum length for Bêche-de-mer Fishery and Crab Fishery

Fishing boats cannot exceed 7 m in length if the associated fishing licence is authorised for the Bêche-de-mer Fishery or 14 m if it is authorised for the Crab Fishery.

### 9.3 Replacement boat length rules

There are restrictions on the length of a fishing boat when replacing a boat except for those used with a Traditional Inhabitant Fishing Boat Licence. Generally, the new boat must not be longer than the length class of the previous boat.

The table below outlines the replacement rules.

Fishery	Current boat length (in metres)	Replacement boat length (in metres)
Prawn	<20	<20
Tropical Rock Lobster	<6	<6
	6-10	<10
	10-14	<14
	>14	Same length as original boat or less; prior approval is required
Spanish Mackerel and Reef Line	<6	<6
	6-14	<14
	>14	Same length as original boat or less; prior approval is required
Pearl Shell	<6	<6
	>6	Same length as original boat or less; prior approval is required

## 10 Scientific and development permits

### 10.1 Scientific Permits

Scientific Permits may be granted to allow scientific activities by way of fishing in areas of Australian jurisdiction of the protected zone. Scientific Permits are assessed on a case by case basis and are handled on behalf of the PZJA by AFMA. For more information on Scientific Permits please contact AFMA directly.

### 10.2 Developmental Permits

Developmental Permits may be granted to allow for a person to assess the commercial viability of a new fishery, kinds of fishing activities, boats or equipment specified in the permit. Developmental permits for training purposes, known as training permits, may be granted to enable non-traditional inhabitants to be present on a boats with a Traditional Inhabitant Fishing Licence to provide training or advice in relation to fishing techniques. Guidance on how to apply for a training permit can be found in the PZJA's "*Developmental Permit for Training Purposes (Training Permit) Policy*."

## 11 Cross endorsement

The Treaty recognises the rights of both Australia and PNG to Protected Zone commercial fisheries. This recognition is implemented through cooperative management and catch sharing provisions of the Treaty.

Under catch sharing arrangements each Party is generally entitled to a proportion of catch in the other Party's jurisdiction which may be accessed through specific arrangements commonly referred to as cross-endorsement. For more information on cross endorsement please contact AFMA directly.