

## Class Notification under the Commonwealth *Native Title Act 1993*

### Licence condition variation to update individual catch shares for Transferrable Vessel Holder licenced operators in line with updates to the total allowable catch for the Torres Strait Tropical Rock Lobster Fishery

Date of Issue: 16 May 2019

<b>SECTION OF NTA</b>	Section 24HA(2) of the Commonwealth <i>Native Title Act 1993</i>
<b>DEPARTMENT/AGENCY</b>	Australian Fisheries Management Authority (AFMA) on behalf of the Torres Strait Protected Zone Joint Authority (PZJA)
<b>CONTACT NAME</b>	Natalie Couchman
<b>E-MAIL</b>	<a href="mailto:fisheriesTI@afma.gov.au">fisheriesTI@afma.gov.au</a>
<b>TELEPHONE NO.</b>	07 4069 1990
<b>REFERENCE NO.</b>	Licence condition variation to update individual catch shares for Transferrable Vessel Holder (TVH) licenced operators in line with updates to the total allowable catch (TAC) for the Torres Strait Tropical Rock Lobster (TRL) Fishery – NT2019-04

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

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

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

<b>NATURE OF ACTIVITY</b>	<p>The proposed management action would vary interim licence conditions relating to individual catch shares on TRL TVH licences in line with updates to the Australian TAC for the TRL Fishery for the 2018-19 fishing season. The conditions that are the subject of this notification, limit the amount of TRL a TVH licence holder may take during the season. The amount of TRL that may be taken will be consistent with agreed relative interim sectoral catch shares between the Traditional Inhabitant Boat (TIB) and TVH sectors.</p> <p>The Australian TAC for the TRL Fishery has been updated during the 2018-19 fishing season, as negotiations with Papua New Guinea (PNG) on catch sharing arrangements under the Torres Strait Treaty have progressed. The current TAC is 408.6375 tonnes. Further agreement/s may result in an increase to the current TAC up to 544.85 tonnes. Depending on the nature of the agreement/s reached, any increase to the TAC and any corresponding TVH interim licence condition variation, may happen in stages.</p> <p>Further information on the proposed management action, including details of the TAC setting process for the 2018-19 fishing season, is provided in <b>Attachment B</b>.</p>
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The above activity will be located within:

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

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

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

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

By mail addressed to:  
Australian Fisheries Management Authority  
PZJA Secretariat  
PO Box 7051  
Canberra Business Centre  
CANBERRA ACT 2610  
Or by email to: [fisheriesTI@afma.gov.au](mailto:fisheriesTI@afma.gov.au)

## Background Information

### What will the proposed management action involve?

1. The proposed management action would vary interim licence conditions relating to individual catch shares on Tropical Rock Lobster (TRL) Transferable Vessel Holder (TVH) licences in line with updates to the total allowable catch (TAC) for the TRL Fishery for the 2018-19 fishing season.
2. The interim licence conditions that are the subject of this notification restrict the amount of TRL each TVH licence holder is able to take during the 2018-19 fishing season, which runs from 1 December 2018 until 30 September 2019. The Traditional Inhabitant (TIB) sector is also restricted in how much can be taken in total across all TIB licences. The TIB sector's catch share is administered through the *Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018* (the Instrument).
3. The relative sectoral catch shares imposed for the 2018-19 fishing season are 66.17 per cent : 33.83 per cent for the TIB and TVH sectors respectively. The TIB catch share is managed through a competitive TAC under the Instrument and is exclusively available to all TIB licence holders – being exclusively traditional inhabitants. The TVH catch share is managed through individual catch allocations imposed through licence conditions. These arrangements follow a suggestion from the Protected Zone Joint Authority (PZJA) Tropical Rock Lobster Working Group (TRLWG) and was agreed by the PZJA on 26 November 2018. This was the subject of native title notification NT2018-13 issued on 14 November 2018.
4. To support the implementation of sectoral catch shares the PZJA agreed to an interim TAC of 200 tonnes, commencing 1 December 2018. In deciding to set an interim TAC the PZJA agreed that a final TAC would be set by March 2019 taking into account the latest information about the status of stock. This includes information from a scientific survey undertaken in November 2018 and updated stock assessment.
5. The PZJA TRL Resource Assessment Group (TRLRAG) (meeting held on 5 February 2019) recommended a recommended biological catch (RBC) for TRL in the Protected Zone TRL Fishery (inclusive of waters under Australian and PNG jurisdiction) of 641 tonnes. This is an increase from the RBC for last season which was 299 tonnes. The PZJA TRLWG (meeting held on 19 February 2019) considered the TRLRAG advice and recommended a TAC for TRL in the Protected Zone TRL Fishery of 641 tonnes.
6. Each season, the TAC for the Protected Zone TRL Fishery is shared between Australia and PNG as per the terms of the Torres Strait Treaty. The Australian TAC is Australia's catch share of the TAC (641 tonnes this season), as agreed with PNG. Final agreement on catch sharing arrangements has yet to be reached this season. Agreements to date are as follows:
  - a. 25 February 2019 – the PZJA decided that the Australian TRL Fishery will have a TAC of between 408.6375 tonnes and 544.85 tonnes, pending agreement on catch sharing arrangements with PNG.
  - b. 28 February 2019 – Australia and PNG agreed to the final TAC of 641 tonnes for the Protected Zone TRL Fishery for the 2018-19 fishing season and final TAC shares of 544.85 tonnes in Australian waters (85% of the TAC) and 96.15 tonnes in PNG waters (15% of the TAC). Pending agreement on cross-endorsement catch allocations, it was further agreed that Australian licence holders would not fish the PNG cross-endorsement catch allocation in Australian waters of 136.2125 tonnes.
  - c. 18 March 2019 - on the basis of the above agreement, the TAC for Australian licence holders operating in Australian waters was increased from the interim amount of 200 tonnes to 408.6375 tonnes. The relative sectoral catch shares for Australian licence holders were given effect through:
    - i. TIB sector - a competitive TAC under the Instrument of 270.395 tonnes; and

- ii. TVH sector – a TAC of 138.242 individually apportioned to TVH licence holders through revised licence conditions – this was the subject of native title notification NT2019-02 issued on 15 February 2019.
7. Since March 2019, the Australian Fisheries Management Authority and PNG National Fisheries Authority have continued discussions regarding cross-endorsement catch allocations. Further agreement/s may result in an increase to the current TAC up to 544.85 tonnes. Depending on the nature of the agreement/s reached, any increase to the TAC may happen in stages. It is proposed that each time the TAC increases, the relative sectoral catch shares for Australian licence holders will be given effect through:
  - a. TIB sector – a competitive TAC under the Instrument; and
  - b. TVH sector – the TVH sectoral catch share is individually apportioned to TVH licence holders through revised licence conditions. This is the subject of this notification.
  - c. The amount of TRL that may be taken by each sector will be consistent with agreed relative interim sectoral catch shares between the Traditional Inhabitant Boat (TIB) and TVH sectors.

### **Why is this management action being proposed?**

8. On 26 November 2018, having considered outcomes of consultation, the PZJA decided to determine the *Torres Strait Fisheries (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2018* (the Management Plan) and to amend the *Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018* (the Instrument). The Management Plan and amendments to the Instrument came into force for the 2018-19 fishing season starting on 1 December 2018.
9. The amendments to the Instrument were made to implement sectoral catch shares for the TIB and TVH sectors on an interim basis (initially for the 2018-19 fishing season) while the formal quota allocation process under the Management Plan is undertaken. These shares are:
  - a. TIB sector - 66.17 per cent of the Australian TAC managed through a competitive TAC under the Instrument; and
  - b. TVH sector - 33.83 per cent of the Australian TAC managed through individual catch allocations imposed through TVH licence conditions (based on the 2007 preliminary allocation notices).
10. Each season, the TAC for the Protected Zone TRL Fishery is shared between Australia and PNG as per the terms of the Torres Strait Treaty. The Australian TAC is Australia's catch share of the TAC (641 tonnes this season), as agreed with PNG. Final agreement on catch sharing arrangements has yet to be reached this season. Depending on the nature of the agreement/s reached, any increase to the current Australian TAC may happen in stages. It is proposed that each time the TAC increases, the relative sectoral catch shares for Australian licence holders will be given effect through:
  - a. TIB sector – a competitive TAC under the Instrument; and
  - b. TVH sector – the TVH sectoral catch share is individually apportioned to TVH licence holders through revised licence conditions. This is the subject of this notification.
  - c. The amount of TRL that may be taken by each sector will be consistent with agreed relative interim sectoral catch shares between the Traditional Inhabitant Boat (TIB) and TVH sectors.

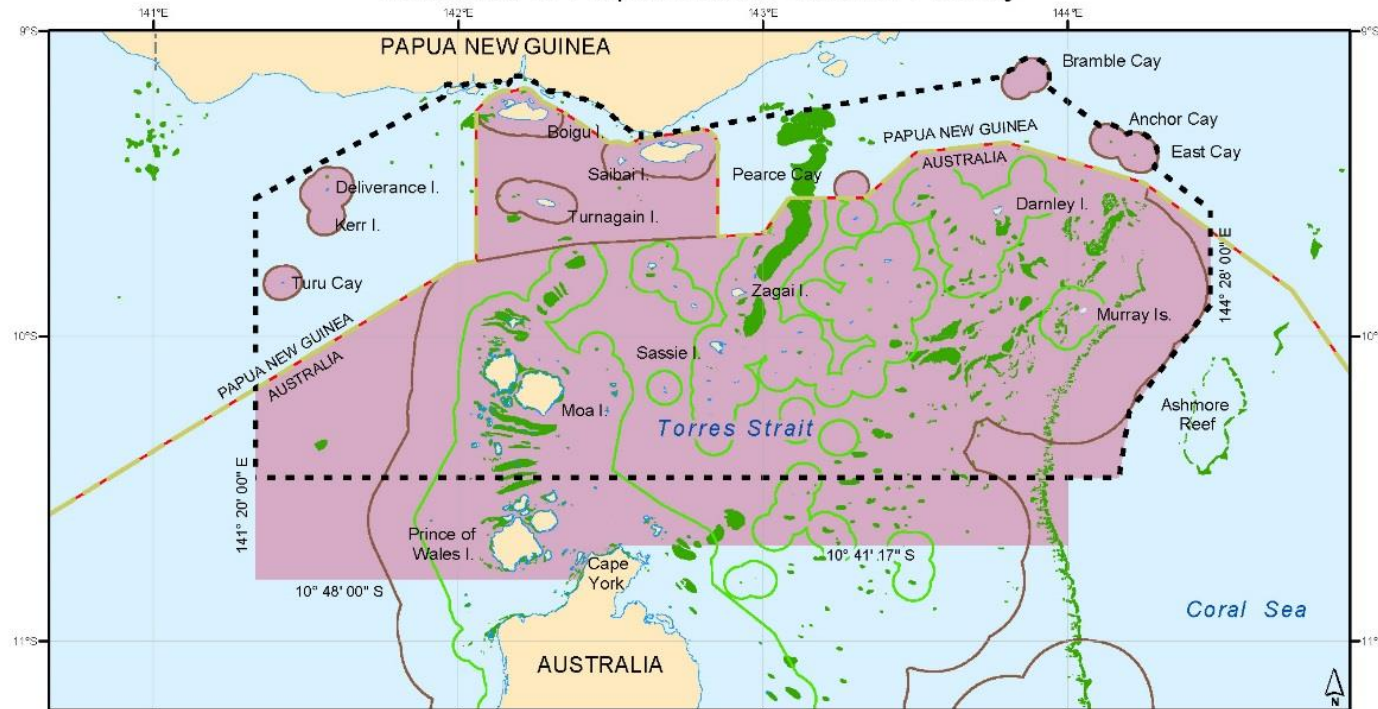
### **How will the proposed management action benefit Traditional inhabitants?**

11. The proposed management action gives effect to sectoral catch shares for the TIB and TVH sectors for the 2018-19 fishing season. Sectoral catch shares limit the amount of TRL that may be taken by each sector and reflect a suggestion from the PZJA TRLWG and was agreed by the PZJA on 26 November 2018. The sectoral catch shares provide for the majority of catch (66.17 per cent) to be taken by the TIB sector – being exclusively traditional inhabitants.

12. The proposed management action is anticipated by TIB and TVH licence holders. On 28 November 2018, AFMA advised all licence holders of the PZJA decision to implement sectoral catch shares and an interim TAC with the interim TAC to be updated following completion of the stock assessment process. On 18 March 2019, AFMA advised all licence holders of the revised TAC, noting pending agreement between Australia and PNG on cross-endorsement arrangements and a possible increase in the TAC depending on the nature of the final agreement.
13. The TRL Fishery is the most valuable fishery in the Torres Strait worth approximately \$12.9 million in 2016-17. Further, it has the highest participation rate of traditional inhabitants for the Torres Strait commercial fisheries.

# Torres Strait Fisheries

## Area of the Tropical Rock Lobster Fishery



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



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

**NOTES:**

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

GeoCat #: 64848