

Ref: NT 2021-02

1 October 2021

Dear Sir/Madam,

Comment on a proposed management action in line with subsection 24HA(2) of the Commonwealth *Native Title Act 1993*

On behalf of the Australian Fisheries Management Authority (AFMA), I am writing to you regarding the proposed management action to vary the conditions on for all fishing, carrier, fish receiver and Master Fisherman's licences in the Torres Strait Fisheries issued under section 19 of the *Torres Strait Fisheries Act 1984* to create standard conditions and ensure the requirements are clear. Further details of the proposed action can be found in **Attachments A – C - Class Notification under the Commonwealth *Native Title Act 1993*.**

Under subsection 24HA(7), AFMA must give the recipient of this notice an opportunity to comment on the action within a period defined by this notice. Please provide any comments on the proposed management action by close of business 29 October 2021, in writing, to the addressee below:

Australian Fisheries Management Authority
Att: Andrew Powell
Box 7051
Canberra BC
Canberra ACT 2610
Email: andrew.powell@afma.gov.au

Since 2019, AFMA has been publishing the native title notifications on the PZJA website. With your agreement, AFMA is also seeking to publish any comments received in response to proposed management actions. Please let us know if you have any concerns with this.

If you have any problems meeting the timeframe given or if you have any additional questions regarding the proposed management action, please contact me by phone on (02) 6225 5561 or email andrew.powell@afma.gov.au

Yours sincerely



Andrew Powell
Manager, Innovation and Improvement
Australian Fisheries Management Authority

AttachmentsA-C Class Notification under the Commonwealth *Native Title Act 1993*

Class Notification under the Commonwealth *Native Title Act 1993*

Variation of Master Fisherman's Licences, fishing licences¹, carrier licences², and fish receiver licences³ for all commercial Torres Strait Fisheries⁴

Date of Issue: 1 October 2021

SECTION OF NTA	Subsection 24HA(2) of the Commonwealth <i>Native Title Act 1993</i>
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DEPARTMENT/AGENCY	Australian Fisheries Management Authority (AFMA) on behalf of the Torres Strait Protected Zone Joint Authority (PZJA)
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CONTACT NAME	Andrew Powell
E-MAIL	Andrew.Powell@afma.gov.au
TELEPHONE NO.	02 6225 5561
REFERENCE NO.	NTN2021-02 – Variation of Master Fisherman's licences, fishing licences, carrier licences and fish receiver licences for all commercial Torres Strait Fisheries

¹ Traditional Inhabitant Boat Licences (TIB), Transferable Vessel Holder (TVH) and Sunset Licences granted under s 19(2) of the *Torres Strait Fisheries Act 1984*

² Carrier Licences Class A, Class B, and Class C granted under s 19(3) of the *Torres Strait Fisheries Act 1984*

³ Fish receiver licences granted under s 19(4B) of the *Torres Strait Fisheries Act 1984*

⁴ The Torres Strait Beche-de-Mer Fishery, Torres Strait Crab Fishery, Torres Strait Finfish Fishery, Torres Strait Pearl Shell Fishery, Torres Strait Prawn Fishery, Torres Strait Spanish Mackerel Fishery, Torres Strait Trochus Fishery, and Torres Strait Tropical Rock Lobster Fishery.

The Australian Fisheries Management Authority intends to do the following act:

TYPE OF APPROVAL	Licence condition variation under section 22 of the <i>Torres Strait Fisheries Act 1984</i> (the Act), for Master Fisherman's Licences, fishing licences, carrier licences and fish receiver licence granted under sections 19(1), 19(2), 19(3) and 19(4B) of the Act.
NUMBER OF APPROVALS	Licence condition variation for all Master Fisherman's Licences, fishing licences, carrier licences and fish receiver licences granted by AFMA on behalf of the PZJA for all commercial Torres Strait Fisheries.
UNDER WHAT ACT	<i>Torres Strait Fisheries Act 1984</i> (the Act)

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

NATURE OF ACTIVITY	<p>Under subsection 22(1) of the Act a licence granted under section 19 is subject to conditions specified in the licence. Subsection 22(2) allows the Minister to vary or revoke the conditions of the licence or specify further conditions to which the licence is subject to.</p> <p>The proposed management action would vary the licence conditions for Master Fisherman's Licences, fishing licences, carrier licences and fish receiver in the Torres Strait commercial fisheries to create standard conditions across all licences of the same type and to ensure that the conditions are clear to licence holders. Specifically, the varied conditions will address the following:</p> <ul style="list-style-type: none"> • Clarifying where the licence holder can operate and what species they can take, carry and/or process or which boats they can be in charge of • Requiring compliance with any applicable management plans • Clarifying that boats nominated on a licence must be Australian boats • Clarifying requirements for carrying a Vessel Monitoring System (VMS) • Clarifying requirements to land catch to licensed fish receivers • Clarifying requirements for tender boats fishing in conjunction with primary boats • Ensuring traditional ownership and operation of boats on certain licences • Standardising requirements for carrier licence holders • Creating provisions for the approved use of electronic catch disposal records on fish receiver licences <p>Further information on the proposed management action is provided in Attachment B.</p>
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The above activity will be located within:

LOCATION OF ACTIVITY	The proposed management action would apply to the area of all commercial fisheries in the Torres Strait. The extent of these areas is described in Items 1, 2, and 4-9, Schedule 2 to the <i>Torres Strait Fisheries Regulations 1985</i> (the Regulations). The Regulations can be accessed online at: https://www.legislation.gov.au/Details/F2016C00633
MAPS/PLANS	Attachment C shows the collective area of the relevant Torres Strait commercial fisheries, as described in Items 1, 2, and 4-9 of the <i>Torres Strait Fisheries Regulations 1985</i> .
NAME OF REGISTERED NATIVE TITLE CLAIMANT GROUP/S OR NAME OF REGISTERED NATIVE TITLE BODY CORPORATE	Northern Cape York Group #1 Northern Cape York Group #3 Torres Strait Regional Sea Claim Kaurareg People #1 Kaurareg People #2 North Eastern Peninsula Sea Claim Group Northern Peninsula Sea Claim
NAME OF NATIVE TITLE REPRESENTATIVE BODY	Ipima Ikaya Aboriginal Corporation RNTBC Malu Lamar (Torres Strait Islander) Corporation RNTBC Cape York Land Council Torres Strait Regional Authority

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

DURATION OF APPROVAL	The proposed management action would apply from 1 December 2021.
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You are invited to comment upon the class of proposed future act outlined above by close of business 29 October 2021. If you would like to extend the response period, please contact AFMA by 22 October 2021.

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

Andrew Powell
Fisheries Services
PO Box 7051
Canberra Business Centre
CANBERRA ACT 2610
Email: Andrew.Powell@afma.gov.au

Background Information

The Australian Fisheries Management Authority (AFMA) provides licensing functions on behalf of the PZJA. The licences that AFMA issues are subject to conditions under section 22 of the *Torres Strait Fisheries Act 1984*. Current licence conditions have been developed over many years. AFMA intends to vary the conditions to ensure they are standardised across all licences of the same type, thus providing greater consistency and transparency. The updated conditions will also help to ensure that all requirements are clear to licence holders.

What impact will the conditions have on Traditional Inhabitants?

The conditions are not expected to impact Traditional Inhabitants. The conditions are being updated for administrative reasons to clarify requirements that are already known and understood by licence holders, including Traditional Inhabitant Boat (TIB) licence holders. In many cases, the updated conditions have the same or a similar effect to existing conditions that they will replace.

What are the proposed conditions?

The proposed conditions are summarised below.

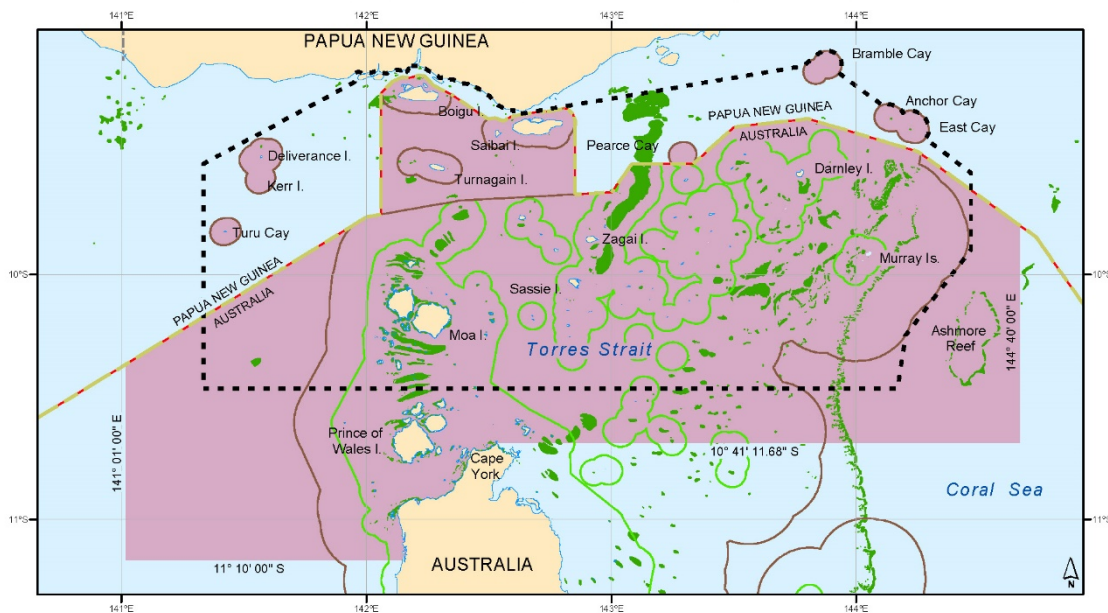
Name of Condition	What licences will the condition be included on?	Status of condition	What is the purpose of the condition?
Definitions	All fishing and carrier licences	New condition	To help with understanding the other conditions
Fishery (for fishing licences)	All fishing licences	Replaces existing condition	To clarify the area of water in which fishing is authorised and which species the licence holder can take. The areas and species are the same as those already listed in legislation and on the PZJA website. Licence holders should already be familiar with what the fishery symbols on their licences mean. This condition merely provides clarity.
Fishery (for Carrier Licences Class A and Class C)	All Carrier Licences Class A And Class C	Replaces existing condition	To clarify the area of water in which carrying and processing is authorised and which species the licence holder can carry and process.
Fishery (for Carrier Licences Class B)	All Carrier Licences Class B	Replaces existing condition	To clarify the area of water in which carrying is authorised and which species the licence holder can carry.
Fishery (for Master Fisherman's Licences)	All Master Fisherman's Licences	Replaces existing condition	To clarify that a licence holder can only be in charge of a boat that is authorised for the same fisheries that the Master Fisherman's Licence is authorised for.

Name of Condition	What licences will the condition be included on?	Status of condition	What is the purpose of the condition?
Australian boat	All fishing and carrier licences	New condition	To clarify that any boat nominated on the licence must be an "Australian boat" as defined in the <i>Torres Strait Fisheries Act 1984</i> . This includes that the boat is owned by an Australian resident and has been built in Australia or lawfully imported. This condition is necessary to meet requirements under the Act.
Management plans	All fishing and carrier licences	New condition	To clarify that licence holders must comply with obligations under any applicable management plan.
Traditional Inhabitant operation and ownership	Traditional Inhabitant Boat Licences and carrier licences granted on the basis that the licence holder is a Traditional Inhabitant	Replaces existing condition	<p>To clarify that:</p> <ul style="list-style-type: none"> • the licence holder must be a Traditional Inhabitant • the boat nominated on the licence must be operated only by Traditional Inhabitants • the licence holder must own the boat nominated on the licence <p>It will replace existing conditions of a similar nature. This condition is important for ensuring the integrity of the Traditional Inhabitant licensing system.</p>
Landing catch to a licensed Fish Receiver	All fishing licences except those with entries in the Torres Strait Prawn Fishery	Replaces existing condition and updates an existing condition	<p>To clarify that fishers must land all catch to a licensed fish receiver, as part of the Fish Receiver System introduced in 2017. The catch may be transported to the fish receiver by a carrier boat.</p> <p>To include provisions for the approved use of electronic catch disposal records for the purposes of reporting landed catch.</p>
Vessel Monitoring System (VMS)	All fishing and carrier licences issued by AFMA. Note: the condition only affects licences where the boat is (a) a carrier boat that is greater than 6 m in length or (b) a primary fishing boat.	Replaces existing condition	To replace the Vessel Monitoring System (VMS) condition that already appears on many licences with a standardised condition for all licences.

Name of Condition	What licences will the condition be included on?	Status of condition	What is the purpose of the condition?
Fishing in conjunction with a primary boat	All fishing licences where the nominated boat is a tender boat	Replaces existing condition	<p>To clarify that a tender boat must operate in conjunction with the primary boat. This will replace individual conditions on each licence with a standardised condition. It also provides some clarity on what this means, including that:</p> <ul style="list-style-type: none"> • the tender boat cannot be towed by any boat other than the primary boat • the tender boat must unload catch to the primary boat unless the primary boat is in port
Carrier Licence Class A conditions	All Carrier Licences Class A	New condition	To clarify that a Carrier Licence Class A allows a primary boat to carry product from associated tender boats and not from any other boat.
Carrier Licences Class B conditions	All Carrier Licences Class B	Replaces existing condition	<p>To standardise existing conditions on Carrier Licences Class B. As with the existing condition, the updated condition will clarify that:</p> <ul style="list-style-type: none"> • the licence holder can only carry product caught by a licensed fisher • the licence does not allow processing of that product • the boat cannot be used to tow boats or accommodate crew (except for associated tender boats and their crew) <p>Additional conditions may apply where the boat endorsed on the licence is a cargo vessel.</p>
Carrier Licences Class C conditions	All Carrier Licences Class C	Replaces existing condition	To standardise the conditions across Carrier Licences Class C without making any substantive changes.

Area of all Torres Strait fisheries

Area of the Torres Strait Fisheries



- 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



Produced by Geoscience Australia
for the Australian Fisheries Management Authority, August 2006
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- Geographic Datum: WGS84
- NOTES:
1. The area of the Fishery is sourced from the Torres Strait Fisheries Regulations 1985
 2. Within this fishery, arrangements exist between the Commonwealth and QLD, whereby the Coastal Waters of that State are deemed part of the AFZ
 3. The Fisheries Jurisdiction Line and Protected Zone shown on this map are established under the Treaty between Australia and the Independent State of Papua New Guinea. This Treaty entered into force on 15 February 1985
 4. The maritime zone boundaries shown on this map are sourced from the 'Australian Maritime Boundaries (AMB) v2.0'

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