

TORRES STRAIT PRAWN MANAGEMENT ADVISORY COMMITTEE	Meeting No. 3 9 February 2007
Update on progress of the TSPF Management Plan	Agenda Item No. 3.1

RECOMMENDATION

That the TSPMAC **NOTES** the update provided in respect to the progress of the Management Plan.

BACKGROUND

1. PZJA outcomes relevant to the TSPF Management Plan

At the September 2006 TSPMAC meeting members were presented with draft version of the TSPF Management Plan (the Management Plan). Following discussion and alteration of certain sections of the Management Plan by members, the TSPMAC recommended that the PZJA agrees that the draft Management Plan be provided to the Office of Legislative Drafting (OLD) as drafting instructions in order to produce a draft Management Plan that can be used for wider consultation and provide the basis of a Regulatory Impact Statement (RIS)

Following this meeting a number of issues in respect to the draft version of the management plan were raised by the Torres Strait Prawn Entitlement Holders Association (TSPEHA) at the PZJA stakeholder meeting of 25 October 2006. The PZJA agreed that the draft Management Plan be provided to the OLD subject to further revision in light of TSPEHA comments and a further review by the PZJA agencies in order to produce a draft Management Plan that can be used for wider consultation and provide the basis of the RIS.

2. Actions arising from previous TSPMAC meetings

Action items number one, four and ten from Table 3.1.2 were AFMA responsibilities.

DISCUSSION

1. PZJA outcomes relevant to the TSPF Management Plan

Following the decision of the PZJA, AFMA representatives contacted the members of the Management Plan working group on the 6th and 7th of December 2006 to discuss the issues raised by TSEPHA. Attachment 4.1.1 details the issues raised by TSEPHA and the resolution reached in respect to each. These changes will be incorporated into the draft Management Plan by mid February 2007. The updated draft Management Plan will then be circulated to the PZJA agencies for comment, prior to being forwarded to the OLD for drafting and subsequent wider consultation, as per the PZJA directive.

2. Actions arising from previous TSPMAC meetings

Action item number one from Table 2.1 required AFMA to investigate the use of short form amendments as the process for amending the Management Plan. Short form amendments are not appropriate for the Management Plan for two reasons. Firstly the Management Plan's content should be correct prior to it being approved and implemented by the PZJA. Any changes that may occur to alter the management of the fishery, should

only be to Fisheries Management Notices which are incorporated as a Schedule to the Management Plan.

Note: The legal options for making amendments are being further investigated. A full appraisal of the options will be provided at the TSPMAC meeting of 9 February 2007.

Action item number four from Table 2.1 required AFMA to discuss the wording of Section 29(6) of the draft Management Plan with OLD to ensure that the period of TAE amendment can be longer than two months in the event of an emergency situation. This section of the draft Management Plan will be discussed with OLD when it is submitted for drafting.

Agenda item number ten from Table 2.1 required AFMA to obtain an estimate of the timeframe for the OLD draft of the Management Plan. AFMA has been advised that OLD drafting may take up to three months to be completed.

Attachment 3.1.1: Issues raised by TSEPHA at PZJA20 in regard to the draft Management Plan and the resolutions agreed to by the Management Plan working group.

- i. Is the Management Plan to be a Commonwealth Management Plan or a Plan that is enacted both in the Commonwealth and the State? This question remains unanswered from MAC meetings.

Resolution: The Management Plan will be a Commonwealth Management Plan, as the Commonwealth has entered into an arrangement with the Queensland Government.

- ii. If to be enacted in both jurisdictions, what involvement has the Qld Parliamentary Counsel process had or is to have with its implementation? Ie certain Constitutional matters apply under state law but not Commonwealth so how is this to be dealt with?

Resolution: As per item (i) the Commonwealth have entered into an arrangement with the Queensland Government. Therefore the Management Plan will be enacted by the Commonwealth.

- iii. The draft document still contains the word Minister as the decision maker in numerous places rather than PZJA, despite this matter being raised at several MAC meetings and indications from Government Officers that this would be corrected ie the decision maker is not a specific Minister but the PZJA under the Joint Authority Arrangements? Eg Division 4;

Resolution: Agreed to change to PZJA, however some aspects of the *Torres Strait Fisheries Act 1984* (TSF Act) delegates responsibilities to the Minister. The appropriate terms will be picked up by OLD in the drafting processes.

- iv. When the word Act or Gazette is used in the Plan, to which Act or Gazette is the Plan referring, the Commonwealth Act or the Qld eg page 2 – under Joint Management does this need to reflect both to be legal;

Resolution: Where Act or Gazette is mentioned it refers to the relevant Commonwealth Act and the Commonwealth Public Service Gazette. This will be clear in the draft that is forwarded to OLD

- v. Under the Commonwealth Management Arrangements does AFMA have any legal right to make decisions for the PZJA Fisheries or should this be done by the PZJA or a delegate of the PZJA (as determined by the PZJA from time to time)?

Resolution: Individual positions within AFMA can be a delegate for certain roles under the TSF Act, but the AFMA Board can not be a delegate. AFMA delegations must be approved by the Minister.

- vi. A definition of retained catch, apart from prawns, is required as the by-catch definition relates only to catch returned to the sea- additionally, in Division 1, Part 11(i) it is implied that only Prawns (as defined) may be fished;

Resolution: It was agreed that a definition of retained by-product species will be included.

- vii. Re Effort units see Industry comment in 5.2.2 below. Also, how legally can there be separate classes of units in a Fishery when these units are entitled to be, and proposed by Government to be, utilized at various times by any or all licensees in the Fishery eg the balance of units not taken up by PNG equivalent to 8 vessels x 275 AFDs? What actually is the proposed difference in these CLASSES? This has not been advised to Industry yet.

Resolution: There can be two separate classes of units in the one fishery and this occurs in other fisheries. There would be no difference in the unit values. The PNG units will be held by the Commonwealth Government and then leased to individuals. The industry representative questioned whether the Government would be accountable in the case that there is a compliance issue, as they were the owner of the units. It was agreed that legal advice may need to be sought on this issue, which AFMA is currently seeking.

- viii. Division 2 Part 18 Grant of Licences. Why is there provision for Traditional Inhabitant fishing licences still in the Plan? If a TS Islander is interested in owning a licence in the Prawn Fishery, isn't it agreed that this is done through normal commercial fishing boat licence acquisition, now that the three Islander Prawn Licences were bought out of the Fishery by Government in 2005?

Resolution: It was agreed to remove the references to traditional and non-traditional fishers, as any person can hold a licence and there is no differentiation between traditional and non-traditional in the TSPF.

- ix. Industry recommend that the word "may" be changed to "will" in Part3 (28) and only if an emergency situation exists should this be circumvented;

Resolution: Part 3(28) previously stated "At least every second year the PZJA may determine the total allowable effort for the upcoming fishing years." It was agreed that the term "may" can be changed to "will", however it may change in the version drafted by OLD.

- x. Division 2 Part 31 - allocations under the Plan should be based on holdings at the date **immediately** prior to the commencement of the Plan, not the 2006 holdings, as the Plan won't be implemented until 2008 and many transfers will most likely take place during 2006 and 2007 right up to the date the Plan is implemented that will change individual allocations; and

Resolution: All members of the working group agreed to this change.

- xi. Schedule 2 needs amendment to reflect the full extent of retained By-catch and the definition needs amending.

Resolution: All members of the working group agreed to amend Schedule 2 to list all by-product species that may be retained but not targeted in the TSPF.

Table 3.1.2: Actions and/or business arising from previous TSPMAC meetings

No.	Action	Action Officer / Agency	Status
1.	Investigate the potential use of short form amendments as the process for amending the Management Plan	AFMA	Completed
2.	Mr Turnbull to provide words on setting reference points to go into the draft management plan.	Clive Turnbull	To have been provided by TSPMAC3.
3.	Part 3, Section 28(1) of the Management Plan to be amended to the wording approved by the TSPMAC.	AFMA	Completed
4.	AFMA to discuss with the OLDP the wording of Section 29(6), to ensure that the period of TAE amendment can be longer than two months in the event of an emergency situation that requires a longer period of amendment.	AFMA	Update to be provided in agenda item 3.1.
5.	A discussion paper/newsletter on leasing is to be prepared for distribution to all licensee's within the TSPF.	QDPI&F / AFMA	Completed
6.	A list of all current TSSAC members and observers to be provided to the TSPMAC.	Clive Turnbull	Update to be provided in agenda item 11.1
7.	A detailed report of the industry consultation meeting, in regard to the proposed spatial trawl survey project in the TSPF, is to be provided to TSPMAC members out of session.	DAFF	Completed
8.	<ul style="list-style-type: none"> • AFMA to advise in the 2007 handbook that recreational fishing is allowed on vessels. • AFMA is to advise/clarify this with compliance officers. 	AFMA	This will be clarified prior to the 2007 handbook being released and appropriate advice will be provided in the handbook
9.	AFMA to forward the abridged ERA report and level one results to TSPMAC members.	AFMA	Update to be provided in agenda item 11.2
10.	AFMA to get an estimated timeframe for completion of the OLDP draft of the management plan and then provide a more definitive date for the next meeting of the TSPMAC.	AFMA	Completed
11.	DAFF to co-ordinate trip to Spencer Gulf and provide details of costings and funding available.	DAFF	Update to be provided in agenda item 12.1
12.	DAFF to investigate whether greater than 4 delegates may attend the Spencer Gulf visit, and whether additional delegates could observe the land based administration of the spatial management systems in place.	DAFF	Completed. Update to be provided in agenda item 11.1
13.	AFMA to email a copy of the Bycatch Reduction Workshop PowerPoint presentation, presented as part of agenda item 12.2, to Mrs Millward out of session.	AFMA	Completed
14.	QDPI&F to check whether the relevant Queensland legislation will require amendment to maintain consistency with proposed amendments to the <i>Torres Strait Fisheries Act 1984</i> .	QDPI&F	The Qld legislation won't require amendment as the management plan is made under Commonwealth legislation via Offshore Constitutional Settlement arrangements.
15.	QDPI&F to explore whether the rule for the East Coast Prawn Fishery in regard to vessels losing fishing days during transit rest periods can be applied to the TSPF.	QDPI&F	The DPI&F delegate is using VMS data as an evidentiary aid for determining whether trawling had occurred. In the cases where an application for review is received and the vessel was clearly not trawling the day is returned.
16.	Draft a summary of the historic management arrangements in the Torres Prawn fishery.	QDPI&F / AFMA / DAFF	Ongoing. Commenced by AFMA but not yet completed.
17.	Undertake an audit of Fishery Management Notices and PZJA decisions for consideration during the drafting of the Management Plan.	DAFF / AFMA	Ongoing. Commenced by AFMA but not yet completed.
18.	That the working group formed to progress the	Shane Gaddes	Ongoing. Commenced, but

	management plan models certain scenarios for the rounding up or down of days and reports back to the MAC.	& Working Group	awaiting finalization of draft plan.
19.	That the implementation of a spatial management system be considered at the next MAC meeting. Consideration will be given to the revised stock assessment with a view to increasing the Total Allowable Effort in the fishery.	MAC	Stock assessment update to be provided as part of agenda item 7.1
20.	Quarterly updates on the progress of the research plan are provided to the MAC.	Stephen Colquitt	Ongoing. Update to be provided as part of agenda item 7.2
21.	Noting that the future role of the SAC is currently under review, the MAC will take on the role of a RAG. The MAC will decide whether to use a sub-group of the MAC for this purpose on a case by case basis.	Chair	Ongoing. The chair advised that the members have not yet been determined.
22.	a) Draft a code of practice for handling sharks for inclusion in the next Handbook. b) Reconsider the NPOA for sharks after the ecological risk assessment has been completed.	Shane Gaddes MAC	Completed. Completed during the development of 2007 Prawn Handbook.
23.	a) AFMA and DPI&F to liaise and jointly provide future budget information for comment prior to the budget being finalized. b) DPI&F managers to discuss QDPIF budget issues with Industry members	AFMA / DPI&F Shane Gaddes, Dan Currey, Jim Gillespie	Ongoing. Pending. Will precede next budget process.
24.	Send a notice to Torres Strait Prawn Entitlement Holders about ensuring crew members have a way home from Torres Strait when leaving vessels.	Mark Millward	Status unknown. Mr Wilson advised that situations where crew members do not have a way home from Torres Strait are not regular occurrences.