

READ ME FIRST

Dear TRLWG members,

As you read through some of the papers you will see comments and questions alongside the text. This is not an error but indeed reflects the fact that we are uncertain about these issues and are seeking input – from you and / or other persons with the relevant knowledge.

Having said this, I don't doubt that there could still be a few mistakes scattered through the documents – that's what happens when you write a lot.

Please give the papers careful thought before the meeting and come prepared to contribute to the development of a workable and cost effective quota management system and management plan for the fishery. Some of the issues will be curly ones but in some senses this meeting will offer us all the first time in many meetings to make real progress in managing the fishery and ensuring it remains healthy and profitable for all stakeholders.

Regards

Jim Prescott
Manager – Torres Strait Fisheries

**TORRES STRAIT TROPICAL ROCK LOBSTER
WORKING GROUP MEETING
28 February- 02 March, 2006
PEARLS BUILDING, THURSDAY ISLAND**

MEETING START TIMES: DAY 1 – 1.00PM; DAYS 2 & 3 – 8.30AM

PRELIMINARY AGENDA

A) OPENING

B) APOLOGIES

C) ADOPTION OF AGENDA

1. Ratification of record of previous TRLWG meeting (10 – 11 March 2005)
2. Actions and/or business arising from the previous TRLWG meeting
3. Outcomes from the out-of-session meeting of the PZJA (23 December 2005)
4. Project Plan (DAFF MAT member)
5. Management Plan (AFMA MAT member)
 - 5.1 *Legislative basis*
 - 5.2 *Contents*
 - 5.3 *Draft plan*
6. Quota Management System for 2007 (AFMA MAT member)
 - 6.1 *Review of key elements of Quota Management System reports*
 - 6.2 *Quota Management System (noting implications of cost recovery)*
 - 6.3 *Allocation process*
7. Review of Master Fisherman's Licences (AFMA)
8. Membership on the *Resource Assessment Group (RAG)*
9. Fishery Objectives (QDPI&F)
10. Queensland East coast process (QDPI&F)
11. Compliance report/ issues (QB&FP)
12. Preliminary report on November/ December pre-season survey (CSIRO)
13. Data: feedback on 2005 season and preliminary report on first pre-season survey (AFMA)
14. Dates for future meetings (AFMA)
15. Other business
 - 15.1 *Independent chair*
 - 15.2 *Torres Strait TRL Strategic Assessment update*

MEETING ENDS 5.00PM ON 2 MARCH

TORRES STRAIT LOBSTER WORKING GROUP MEETING
10 – 11 March 2005
PEARLS BUILDING, THURSDAY ISLAND

**RECOMMENDATIONS FROM THE TRLWG TO THE
TSEMAC**

Number	Recommendation
1	That the TSEMAC agree to the proposed terms of reference for the TRL RAG and its proposed relationships with other PZJA consultative bodies.
2	That the chair of the PZJA write to the Queensland and PNG inviting them to each nominate a scientific or management, and Industry member to the RAG (i.e. four extra members).
3	The working group reaffirms the previous working group recommendation to ban the practice of night diving for lobsters on the proviso that the wording of the prohibition does not impact on fishers transiting the fishery during hours of darkness.
4	TRL Working Group recommends: <ul style="list-style-type: none"> a) that the area surrounding the islands of Mabuiag, Badu and Moa (as per Attachments 5) be set aside as a hookah free area; and b) that this arrangement be reviewed within three years of its implementation.

ACTION ITEMS

Number	Action Item	Action Agency
1	Jim Prescott to draft a letter to inform the Department of Environment and Heritage (DEH) about the changes in management arrangements for Torres Strait Tropical rock lobster fishery for the 2005 fishing season.	AFMA
2	The TRL working group (Islander sector) requested written advice from AFMA or PZJA the length of time the cap would remain.	QDPI&F
3	Obtain advice from DEH on when the report to DEH for each year (Recommendation 10) is due	AFMA
4	Industry and Islander sectors to consult on the trading of tenders and report on this consultation to John Kung by <u>29 April 2005</u> . The questionnaire developed during the	INDUSTRY & TSRA

	meeting is to be used as a basis for this consultation	
5	Industry and Islander sectors to provide to John Kung a final list of nominations for the sub group and possible dates for holding a meeting of the sub group to finalise the management objectives for the Torres Strait TRL fishery.	INDUSTRY & TSRA
6	Seek legal advice on whether conditions can be imposed on primary boats preventing them from being used for fishing.	AFMA
7	Industry and Islander sectors to consult on the limiting of hookah operations only one diver at any one time and report on this consultation to AFMA management by <u>29 April 2005</u> . The questionnaire developed during the meeting is to be used as a basis for this consultation (along with the other issues on the questionnaire).	INDUSTRY & TSRA
8	Develop appropriate words in consultation with QB&FP officers ensuring prohibition is enforceable and does not impact on fishers transiting the fishery during hours of darkness. This action item to be completed in time for the next scheduled TSFMAC meeting.	AFMA/QB&FP
9	Raise the issue of the terms of reference for the consultant (quota) with agencies and request that it include alternative management approaches.	AFMA
10	Industry to consult on hookah free area proposals and report back to AFMA management on the outcomes of that consultation by <u>29 April 2005</u> .	INDUSTRY
11	Raise the possibility of more joint patrols with the relevant compliance officials.	AFMA

TORRES STRAIT LOBSTER WORKING GROUP MEETING
10 – 11 March 2005
PEARLS BUILDING, THURSDAY ISLAND

AGENDA

- A) *OPENING*
- B) *APOLOGIES*
- C) *AGENDA*
- 1. Confirmation of the Record of the previous meeting (5 - 6 October 2004)**
 - 2. Business arising from the previous meeting**
 - 3. Strategic Assessment: Outcome of process**
 - 4. Business arising from TSFMAC meeting**
 - a. *Terms of Reference for Resource Assessment Groups (RAG)*
 - b. *Completion of Management Objectives (prioritised and resources needed)*
 - 5. Licence Amalgamation/tender trading draft policy**
 - 6. Catch Data**
 - 7. Other Issues: Hookah registry and night diving prohibition**
 - 8. Management arrangements for 2006**
 - a. *Total Allowable Catch (TAC) system: Policy considerations*
 - b. *TAC operational system:*
 - c. *Research Support– what research is needed to set “robust” TACs*
 - d. *Alternative strategies to achieve control of fishing mortality*
 - 9. Area closures (to hookah or more generally)**
- D) *OTHER BUSINESS*
- 1. Illegal Fishing by PNG nationals on Warrior Reef**
 - 2. Trawling or Bycatch of lobsters by PNG Prawn Trawlers**
- E) *NEXT MEETING*

TORRES STRAIT LOBSTER WORKING GROUP MEETING
10 – 11 March 2005
PEARLS BUILDING, THURSDAY ISLAND

MINUTES OF MEETING

THESE ARE **DRAFT** MINUTES WHICH HAVE BEEN DISTRIBUTED TO WORKING GROUP MEMBERS AND WILL BE RATIFIED AT THE NEXT MEETING OF THE WORKING GROUP. IF **NO** COMMENTS ARE RECEIVED BY **15 APRIL 2005**, THIS WILL REMAIN A TRUE COPY OF MINUTES TAKEN AT THIS MEETING.

DAY 1

Attendance

John Marrington	(Chair - AFMA)
Jim Prescott	(AFMA)
Sascha Taylor	(AFMA)
Ray Moore	(Industry Representative)
Brett Arlidge	(Industry – QRLA and QSIA Representative)
Peter Yorkston	(TSRA Fisheries Co-ordinator)
Lota Warria	(Traditional Inhabitant Representative – Yorke Island)
Yen Loban	(Traditional Inhabitant Representative – Muralag)
William Bowie (<i>proxy</i>)	(Traditional Inhabitant Representative – Badu Island)
Graham Hirakawa	(Traditional Inhabitant Representative – Port Kennedy)
Charles David (<i>proxy</i>)	(Traditional Inhabitant Representative – Yam Island)
Terrence Whap	(Traditional Inhabitant Representative – Mabuiag Island)

Observers

Chris Robb	(Industry)
Richard Bowie	(Traditional Inhabitant - Badu)
Patrick Mills	(Traditional Inhabitant - TI)
Sammy Tamu	(Traditional Inhabitant Representative – Warraber Island)
Philip Polon	(National Fisheries Authority – Port Moresby)
Toshio Nakata	(CRC Torres Strait)

DAY 2

Attendance

John Marrington	(Chair - AFMA)
Jim Prescott	(AFMA)
Sascha Taylor	(AFMA)
Ray Moore	(Industry Representative)
Brett Arlidge	(Industry – QRLA and QSIA Representative)
Peter Yorkston	(TSRA Fisheries Co-ordinator)
Lota Warria	(Traditional Inhabitant Representative – Yorke Island)
Yen Loban	(Traditional Inhabitant Representative – Muralag)

William Bowie (<i>proxy</i>)	(Traditional Inhabitant Representative – Badu Island)
Graham Hirakawa	(Traditional Inhabitant Representative – Port Kennedy)
Charles David (<i>proxy</i>)	(Traditional Inhabitant Representative – Yam Island)
Terrence Whap	(Traditional Inhabitant Representative – Mabuiag Island)

Observers

Chris Robb	(Industry)
Sam Tamu	(Traditional Inhabitant Representative – Warraber Island)
Philip Polon	(National Fisheries Authority – Port Moresby)

DAY 1 – 10 March 2005

A) OPENING

The meeting was opened at 0845 by the chair of the TRL working group, Mr John Marrington.

B) APOLOGIES

Trysh Stone	(AFMA Senior Manager – Northern Fisheries)
John Kung	(QDPI&F)
Phil Gaffney	(QDPI&F)
Bill Nason	(QB&FP)
Lyndon Peddell	(QB&FP)
Quentin Hirakawa	(QB&FP)
Yimin Ye	(CSIRO Division of Marine Research - Cleveland)
Mark David	(Traditional Inhabitant Representative – Yam Island)
Manai Nona	(Traditional Inhabitant Representative – Badu Island)
Randall Owen	(GBRMPA)
Noel Taylor-Moore	(Independent Fisheries Consultant)

Apologies were received from Trysh Stone, Noel Taylor-Moore, Yimin Ye, John Kung, and Randall Owens who were all unable to attend because of the cancellation of flights owing to Cyclone Ingrid. Phil Gaffney from QDPI&F was not able to attend because of other work commitments.

C) AGENDA

Due to the absence of numerous working group members and observers due to unforeseen circumstances the agenda was amended as noted. It was agreed to move Agenda item 4 (outcome of strategic assessment process) before Agenda item 3 so that the group would have the DEH recommendations for the fishery in mind when management objectives for the fishery were discussed. Other agenda items were moved accordingly to allow for telephone hook ups with those members who were unable to attend the meeting.

Dr Ray Moore also wished to discuss the following items under other business whilst the TRL working group had present a representative from the National Fisheries Authority (NFA), Port Moresby –

1. Illegal fishing by PNG nationals on Warrior Reef; and

2. Bycatch of Tropical rock lobster by PNG licensed prawn trawlers

Philip Polon agreed to discuss these issues after seeking advice from NFA in Port Moresby. The final agenda was adopted by the TRL working group.

Agenda Item 1: Confirmation of the record of the previous meeting (5 – 6 October 2005)

The minutes of the last meeting of the TRL working group held on 5 – 6 October 2004 were distributed on 20 October 2004 for a period of 4 weeks for additional comments by members. Comments were received from Randall Owen and were incorporated into the final version. There were no other amendments made by members of the working group and the final minutes of the last meeting were ratified by the TRL working group.

Agenda Item 2: Business arising from the previous meeting (5 – 6 October 2004)

There were no outstanding action items from the previous meeting of the working group.

Agenda Item 3: Strategic Assessment: Outcome of Process

Mr Jim Prescott presented the agenda paper to the working group. Ray Moore questioned management on the following extract (highlighted in bold) from **Attachment 2. Torres Strait Tropical Rock Lobster Fishery** of the agenda paper;

“...Unless amended or revoked, this declaration:

b. is subject to the following conditions:

- 1. Operation of the fishery will be carried out in accordance with the Torres Strait Tropical Rock Lobster management arrangements.*
- 2. The Australian Fisheries Management Authority will inform the Department of the Environment and Heritage of any changes to the Torres Strait Tropical Rock Lobster management arrangements or other significant policy documents.”*

Ray Moore questioned management whether they had informed the Department of Environment and Heritage (DEH) that (1) the cap on the Traditional Inhabitant sector (TIB) had been lifted; and (2) informed them about the new management arrangements for the 2005 TRL fishing season. Management indicated that DEH had not been notified.

Action Item: AFMA (Jim Prescott) to draft a letter to inform the Department of Environment and Heritage (DEH) about the changes in management arrangements for Torres Strait Tropical rock lobster fishery for the 2005 fishing season.

Charles David questioned management on the foundation of the recommendation capping TIB boats 6 metres and greater. He stated this was a recommendation that the TIB sector hadn't supported and once again '*...management again restrict effort in the TIB sector*'. He further reported many Torres Strait Islanders eligible for a TIB licence had in fact undergone training for maritime tickets (i.e. coxswains) with the intentions of upgrading to larger 6m+ boats.

Management explained that at the last TRL working group meeting no recommendations were put forward to the TSFMAC and PZJA. Management also outlined the PZJA process in respect of briefings and how they are provided to each member by their respective organisations.

The question was asked when the cap on boats greater than 6 metres would be lifted. Jim Prescott responded that he had verbally been advised by the Ministers Office that it would only be in place until the longer term arrangements (such as a quota system) were introduced.

Action Item: The TRL working group (Islander sector) requested written advice from AFMA or PZJA the length of time the cap would remain.

Discussion then moved to the subject of “*Priority of Access*”. This continued for a period before the Chair brought the discussion to an end by reading the **DRAFT outcomes** of the last PZJA (17th) meeting.

Jim Prescott then continued on the agenda item by reading through the DEH recommendations on the ecologically sustainable management of the Torres Strait Tropical Rock Lobster fishery.

Action Item: AFMA to get advice from DEH on when the report to DEH for each year (Recommendation 10) is due.

Agenda Item 4: Business arising from the TSFMAC meeting (2 – 3 November 2004)

4a. Terms of Reference for Resource Assessment Groups (RAG)

Jim Prescott presented this agenda item by reading through the ‘*Draft terms of reference and operational guidelines*’. Jim informed the group that the paper was adapted from the AFMA paper “FMP 12 (FISHERY ASSESSMENT GROUPS - ROLES, RESPONSIBILITIES AND RELATIONSHIP WITH MANAGEMENT ADVISORY COMMITTEES)” and modified to make it relate more closely to the specific objectives of the Torres Strait TRL RAG.

The Working Group supported the ‘*Draft terms of reference and operational guidelines*’ but recommended that the membership be expanded to include representatives from Qld and PNG. The working group noted that this would create a larger than normal RAG but saw the benefit of equal representation for the other two jurisdictions.

Recommendation: That the TSFMAC agree to the proposed terms of reference for the TRL RAG and its proposed relationships with other PZJA consultative bodies.

Recommendation: That the chair of the PZJA write to the Qld and PNG inviting them to each nominate a scientific or management, and Industry member to the RAG (i.e. 4 extra members).

4b. Completion of Management Objectives (prioritised and resources needed)

John Kung presented this agenda item via telephone from Brisbane. Due to John being unable to be present this paper in person, he suggested the objectives be progressed out of

session. John indicated he will be on TI in April (i.e. next scheduled Finfish Working Group meeting) where he could work on the objectives with a sub group of the TRL working group (i.e. two Industry representatives and three Torres Strait Islander representatives). This approach was supported by the Working Group and the following nominations were made to sit on that sub group:-

Industry representatives

Ray Moore
Yet to be nominated

Islander representatives

Peter Yorkston
Lota Warria
Graham Hirakawa

Action Item: Industry and Islander sectors to provide to John Kung a final list of nominations for the sub group and possible dates for holding a meeting of the sub group to finalise the management objectives for the Torres Strait TRL fishery.

Agenda Item 5: Licence Amalgamation/ tender trading draft policy

John Kung presented this agenda item via telephone from Brisbane.

The Working Group considered the issue of tender trading and licence amalgamation. The difference between trading and amalgamation was discussed at length. The question was raised as to why the Working Group was even discussing the trading of tenders because this was not a concept that had been developed by the working group. Management informed the members that the PZJA had directed the Working Group to consider this issue for a particular purpose, namely to allow non-islander licence holders to restructure their businesses should the need arise out of any decisions that may take effect in relation to priority of access that the tender trading issue had come from the PZJA.

Islander members did not support trading of tenders but did support the amalgamation of two licences where tenders were sacrificed and one of the two primary vessels would also be surrendered. Management informed the group that most Australian commercial fisheries allowed licence holders to trade units, the Torres Strait Prawn Fishery and Western and Southern rock lobster fisheries were used as examples of this.

Non-Islanders were of different opinion about whether or not there should be any sacrifice of tenders during tender trading or licence amalgamation. Ray Moore suggested that if a licence holder was going to do something good for the himself, then they should also do something good for the industry by removing tenders from the fishery. Management noted that such penalties on trading had hindered adjustment in some fisheries, and that it may be unnecessary when fishers may already be under financial stress to require a further penalty to apply in the process of restructuring a business.

Both sectors agreed that they would have to consult on this agenda item and report back to the Working Group. To assist in the process of consulting the working group drafted a questionnaire which in the process of drafting brought out many concerns and highlighted a number of significant issues (see Attachment 1). Members were asked to report on their consultations by 29 April.

Action Item: Industry and Islander sectors to consult on the trading of tenders and report on this consultation to John Kung by 29 April 2005. The questionnaire developed during the meeting is to be used as a basis for this consultation.

Action Item: AFMA to seek legal advice on whether conditions can be imposed on primary boats preventing them from being used for fishing.

Action Item: Industry and Islander sectors to consult on the limiting of hookah operations only one diver at any one time and report on this consultation to AFMA management by 29 April 2005. The questionnaire developed during the meeting is to be used as a basis for this consultation (along with the other issues on the questionnaire).

DAY 2 – 11 March 2005

Agenda Item 6: Catch Data

Vanessa Moore (AFMA Logbook officer) provided a summary of the data collection systems operating now (and historically) in the Torres Strait. Vanessa also presented catch figures for the fishery for the period 2001 to 2004 inclusive. AFMA noted that while it was not expected that final figures would deviate much from the figures presented there was further work to be done on the data, including the key punching of some logbook and docket book records. The catch data presentation is attached to the rear of the minutes (see Attachment 2).

Members were generally satisfied with the data, and Brett Arlidge indicated that the figures provided were in line with what his company estimated. AFMA indicated that it was reasonably confident that the data being collected now would lead to more accurate estimate of catch than were previously available from the fishery.

Agenda Item 7: Other Issues – Hookah Registry and Night Diving Prohibition

7a. Hookah Registry

The working group was informed that it had been requested by the PZJA to provide advice on a register of hookah users and hookah gear. The working group noted that registering users may be outside the bounds of the TSF Act, however the group understood that the PZJA could establish a register of hookah gear and could require gear in use to be registered.

Islander members of the working group did not support establishing a register citing that they considered that the register posed a threat to their economic development opportunities because they expected that it was a first step towards a limit on the number of hookahs that would be allowed in the fishery. They noted that they had, '*in good faith*', volunteered a 12 month cap on the number of TIB licences with CR endorsements and then had to fight hard to have it removed. They noted that they did not trust the PZJA as a result of this issue. There were also concerns expressed about the cost of registering a hookah.

Despite the Islander position, the working group continued to work through the issues with both sectors participating in discussion. Outcomes of the discussion were:

- a hookah will be defined as ‘a frame fitted with a motor and compressor’;
- the licence holder should be responsible for registering a hookah regardless of who owns the hookah;
- hookahs should be marked with a unique tag. The tag would be attached to the frame as the frame is generally replaced the less frequently than the motor or compressor. The tag should be able to be removed and re-attached to a different hookah when necessary and for what ever reason; and
- the register should be updated on an annual basis.

Islanders were willing to accept the definition of a hookah but did not show support for the other outcomes. Non-islanders supported the register but noted that from their perspective since every tender in their sector is equipped with a hookah, the register would only record what was already widely known.

7b. *Night diving prohibition*

The working group noted that there had been some night diving for lobsters tried by at least one operator during the 2004 season. The group agreed that night diving under an input management system constituted a threat to the fishery because it could increase fishing effort and also agreed that the issue was best dealt with directly by eliminating the potential for this method of fishing.

The working group members were reminded that they had agreed in principle at the last meeting to introduce a prohibition on night diving. Jim Prescott noted that the PZJA had requested advice on the prohibition given the difficulties with enforcement.

At the last meeting discussion had centred on ways of preventing the take of lobsters by diving at night and it was noted that this was particularly problematic given that a person were have to be caught in the act of taking a lobster to be breached.

Jim Prescott suggested that a notice could be worded to the effect of it prohibiting the possession of diving gear (eg a mask, fins etc) and TRL between certain hours. This would allow an officer to detect a breach at any time and would not have to be present when the lobsters were taken. The group considered that this approach had merit, however some members pointed out that fishers transiting from distant grounds to their respective communities or to a buyers premises, for example on Thursday Island, would be disadvantaged by this approach.

As no compliance personnel were at the meeting it was difficult to progress this issue. AFMA undertook to continue discussing the matter with QBFP with the aim of resolving this issue as soon as possible.

Action Item: AFMA to develop appropriate words in consultation with QBFP officers ensuring prohibition is enforceable and does not impact on fishers transiting the fishery during hours of darkness. This action item to be completed in time for the next scheduled TSFMAC meeting.

Recommendation - The working group reaffirms the previous working group recommendation to ban the practice of night diving for lobsters on the proviso that the wording of the prohibition does not impact on fishers transiting the fishery during hours of darkness.

Agenda Item 8: Management Arrangements for 2006

Discussion of this agenda item were postponed several times during the meeting to find a suitable time where the independent fisheries consultant, Noel Taylor-Moore, could be included in the discussion by telephone.

The discussion began with an introduction of members and Noel giving a brief description of his experience relevant to the consultancy he will undertake. Noel explained that his terms of reference were to determine a draft quota management system for the fishery. Noel pointed out that it was not in his terms of reference to determine any alternative management systems; however he noted that he would be favourably disposed to expanding his terms of reference to include this extra work.

Action Item: AFMA to raise the issue of the terms of reference for the consultant (quota) with agencies and request that it include alternative management approaches.

As the working group worked through the paper the consultant made comments where he thought it was appropriate and members asked questions of Noel as issues arose.

The working group understood that the quota system could have some major benefits in terms of establishing more secure access shares for each sector and there was support from both sectors for the system for that reason. However the working group also understood that there would be some difficult issues to be overcome. In particular some islander members of the working group had established that their share of the quota, if it were divided equally among current TIB licence holders, could be unviable for those who were economically dependent on the industry.

The working group discussed alternatives to a quota system for a short time. Management noted that the current input management arrangements do not allow for tight controls on effort because there are no simple mechanisms that can adjust effort should it be necessary. This is partly because there is still latent effort in the fishery in both sectors. It was pointed out that the increase in effort between 2003 and 2004 in the non-islander sector was the result of activation of licences that had been inactive for several years, but also because some active licences increased the number of days that they fished and it was noted that there is still opportunity for some licences to fish more days, i.e. there is still latent effort in that sector.

Management pointed out the greatest amount of latent effort exists in the TIB sector where most licences are used infrequently. The problem is amplified because there is no limit on the number of TIB licences with CR endorsements. Islanders did not accept this argument and complained that the other sector is clearly the one taking most of the catch.

Management suggested that there were some clear options for improving the input management system as it applied to the non-islander sector. It was quite achievable to allocate effort to the non islander sector licences based on the number of tenders and or on

history acquired. However, management conceded that there was no obvious way to complement arrangements of this sort with similar arrangements in the islander sector.

Both sectors agreed that managing effort is problematic. The working group was left looking forward to working with the consultant who they hoped may have some fresh ideas, and some ideas how a quota system might work.

Agenda Item 9: Area Closures (to hookah or more generally)

Jim Prescott read through the agenda paper. The working group noted the difficult history of trying to bring in hookah closures, with one member commenting that the real interest among Islanders was for a total hookah ban and that there had been solidarity on this issue.

Positions from previous meetings were generally unchanged. There was no support from the Island sector for a closure of the Eastern Torres Strait. There was no support offered by either sector for closing the territorial seas around Turu Cay, Kerr Island and Deliverance Island in line with the agenda papers' proposal for closures there to hopefully coincide with a trawl closure in PNG's surrounding area of jurisdiction.

After a lengthy discussion Terrance Whap re-introduced the proposal for a closure around Mabuig, Badu and Moa Islands. Terrance noted that he had consulted with his constituents on Mabuig and could offer several closed area options. The preferred option was the one presented at the last meeting which takes in a large area to the north of Orman Reef and extends south of Badu and Moa. The second option was for a smaller area that included waters north to approximately Numar Reef. The least preferred option included the waters north to number one passage between Anui and Gariar (this area corresponded with what was shown on "Map B" previously). Terrance offered the third option with the proviso that it would be reviewed within 3 years and that his constituents expected that the boundary would be extended progressively to the north to coincide with the area proposed originally.

The working group acknowledged Terrance's efforts in finding a compromise position thus enabling the issue of area closures to be further progressed.

Recommendation: The TRL Working Group recommends:

- a) that the area surrounding the islands of Mabuig, Badu and Moa (as per Attachments 5) be set aside as a hookah free area; and
- b) that this arrangement be reviewed within three years of its implementation.

Sammy Tamu was asked to comment on what area was being requested by Warraber (Sue) fishers. He outlined the area on the map (see Attachment 3). This represents no change on the previous area being sought and there was no agreement between the sectors to advance this. The non-Islander sector noted that they still support the area closure that they had proposed previously.

Charles David outlined on the map the area that Iama (Yam) fishers currently wanted closed. This area differs from the area previously outlined by Mark David, covering less of Warrior Reef and leaving out the areas to the west around Gabba (see Attachment 3). Charles noted that he wanted the southern end of Warrior Reef closed for reasons of fisheries management and because the area was important to him as his father was lost there. The non-islander

sector could not support the area closure proposed by Charles, but undertook to discuss the proposal with industry.

Action item – Industry to consult on hookah free area proposals and report back to AFMA management on the outcomes of that consultation by 29 April 2005.

D) *OTHER BUSINESS*

Illegal fishing on Warrior Reef

Charles David described what he and others at Iama (Yam) were observing on Warrior Reef. They noted that there were large numbers of PNG traditional inhabitants using the reef for collecting sandfish and they were probably also taking lobsters. Ray Moore also noted that this had been reported by other non-islander fishers who were diving for lobsters at Warrior Reef in February 2005.

Philip Polon responded by saying the PNG had few compliance resources to task to resolving the problem. He specifically noted that the nearest patrol vessel is based in Port Moresby and that NFA's own officers were also Port Moresby based. Philip did point out that there were plans for a fisheries wharf and facilities to be built in Daru in the near future and he was hopeful that a patrol vessel may be stationed there. However he also acknowledged that the people in Daru and adjacent coastal villages have few economic opportunities and that there was strong incentive to undertake the activities that are being observed.

Management noted that there are a series of compliance obstacles that must be overcome before the illegal fishing can be more effectively controlled. It was stated that one significant issue will be dealt with during the autumn sitting of parliament where an amendment to the *Torres Strait Fisheries Act* is expected to be passed which would allow Australian officers to detain and return suspected illegal PNG fishers to Thursday Island while investigations were made and then for an orderly repatriation of the suspects to PNG authorities for PNG to take appropriate action.

It was noted that there have been numerous attempts to have joint patrols and that these could be useful if they were made in a targeted way and were not disrupted as they had been in the past from time to time by the responses to other foreign fishing issues.

Action Item: AFMA to raise the possibility of more joint patrols with the relevant compliance officials.

Bycatch of lobsters in Gulf of Papua (GOP)

Ray Moore asked what the current status was with regard to the retention of bycatch of lobsters in the GOP. It was understood that this issue was discussed at the PZJA and that the Managing Director of the NFA had indicated at the time that although there was a lot of pressure on NFA to allow for the retention of bycatch that there was no retention allowed. Philip Polon reaffirmed this position at the meeting.

However, despite this policy working group members were aware that there were lobsters with the characteristic gooseneck barnacles being exported to Australia. It was noted that one company had imported two tonnes of tails already this year of what seemed to be migratory lobsters. Philip Polon explained that these lobsters may have been ones caught at

Iokea village in the Gulf Province where there was a large catch taken by villagers and purchased by an Australian.

The working Group remains concerned that trawling of migratory lobsters in the GOP could undermine any measures taken in Australia to manage the fishery. The working group remains concerned about this issue.

E) NEXT MEETING

Not discussed - date yet to be set.

TENDER TRADING POLICY + LICENCE AMALGAMATION

The PZJA has requested that a policy be developed which will result in an open and transparent process of allowing adjustment between operators in the TRL fishery. It is thought that if tenders could be traded or 2 licences could be amalgamated into one that there could be benefits for the operators concerned and the fishery as a whole. This questionnaire is to seek your views on specific questions that must be answered before a policy is developed.

In answering the questions you should consider how the fishery might be managed in the future. There are essentially two options: by input controls (stricter controls on effort) or by output controls. We have allowed you two spaces to answer each question under these two different scenarios. You need to consider how these two systems may differ from one another before you answer the question. The answer may often be the same under either scenario.

Q1 SHOULD ANY TENDERS BE SURRENDERED IN THE PROCESS OF TRADING? I.E. AS A MEANS OF REDUCING EFFORT? SHOULD THIS ONLY APPLY WHEN TENDERS ARE TRADED FROM A SMALL VESSEL TO A LARGE VESSEL?

IF YES – HOW MANY OR WHAT PERCENTAGE?

Input Managed	Quota managed

Q2 FOLLOWING TRADING OF TENDERS OFF A LICENCE, SHOULD THE PRIMARY AND ANY REMAINING TENDERS BE SURRENDERED OR BE ALLOWED TO REMAIN IN THE FISHERY?

Input Managed	Quota managed

Q3 WHAT IS A SOCIALLY AND CULTURALLY APPROPRIATE NUMBER OF TENDERS FOR A FREEZER BOAT-TENDER LICENCE PACKAGE?

Input Managed	Quota managed

Q4 FOR ANY TENDER TRADED OR SURRENDERED, WHAT PERIOD SHOULD BE USED TO ESTABLISH ITS CATCH or EFFORT HISTORY –

- A) PRIOR TO A FUTURE ALLOCATION?
- B) FOLLOWING A FUTURE ALLOCATION?

Input Managed	Quota managed

BOAT REPLACEMENT POLICY

Q5 IS THE CURRENT BOAT REPLACEMENT POLICY PREVENTING EXPANSION OF THE LIVE FISHERY (current low prices for live is an issue but this question is about whether boats are large enough for the tanks needed to carry live when it is economically favourable to do so)? **YES** or **NO** (circle one)

Table 1. Vessel upgrade policies for the Tropical Rock Lobster (TRL) fishery

Fishery	Vessel	Length Categories (metres)			
		≤ 6	>6 and ≤10	>10 and ≤14	>14
TRL	Existing	≤ 6	>6 and ≤10	>10 and ≤14	>14
	upgrade	≤ 6	≤ 10	≤ 14	Same length ¹

1. As far as practical approval should be for vessel of same size or less

USE OF PRIMARY BOAT FOR HOOKAH DIVING, NUMBER OF HOOKAH DIVERS PER TENDER

Q6 SHOULD HOOKAH DIVING BE ALLOWED FROM THE PRIMARY BOAT FOR PRIMARY-TENDER OPERATIONS? IF SO UNDER WHAT CONDITIONS?

Input Managed	Quota managed

Q7 HOW MANY HOOKAH DIVERS SHOULD BE ALLOWED TO DIVE OFF A TENDER AT ANY ONE TIME?

Input Managed	Quota managed

Torres Strait TRL Fishery Catch Data Summary

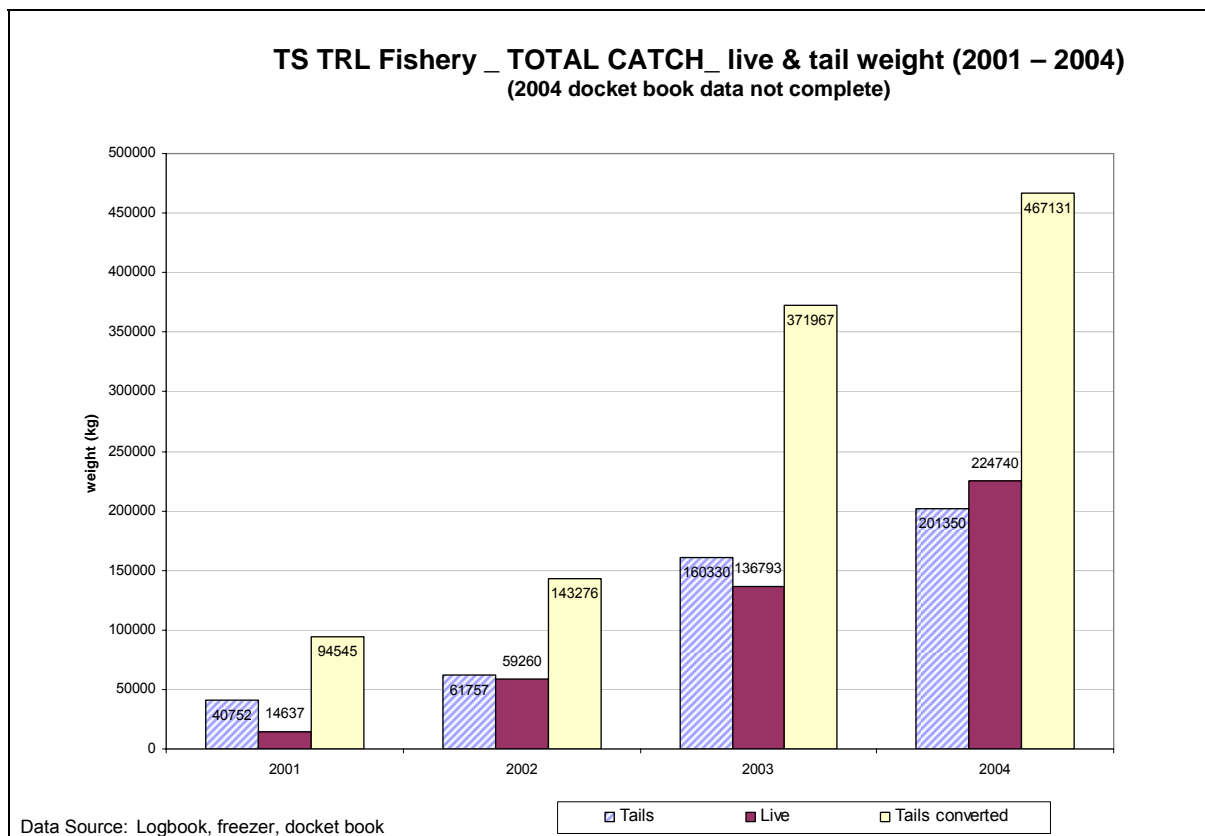
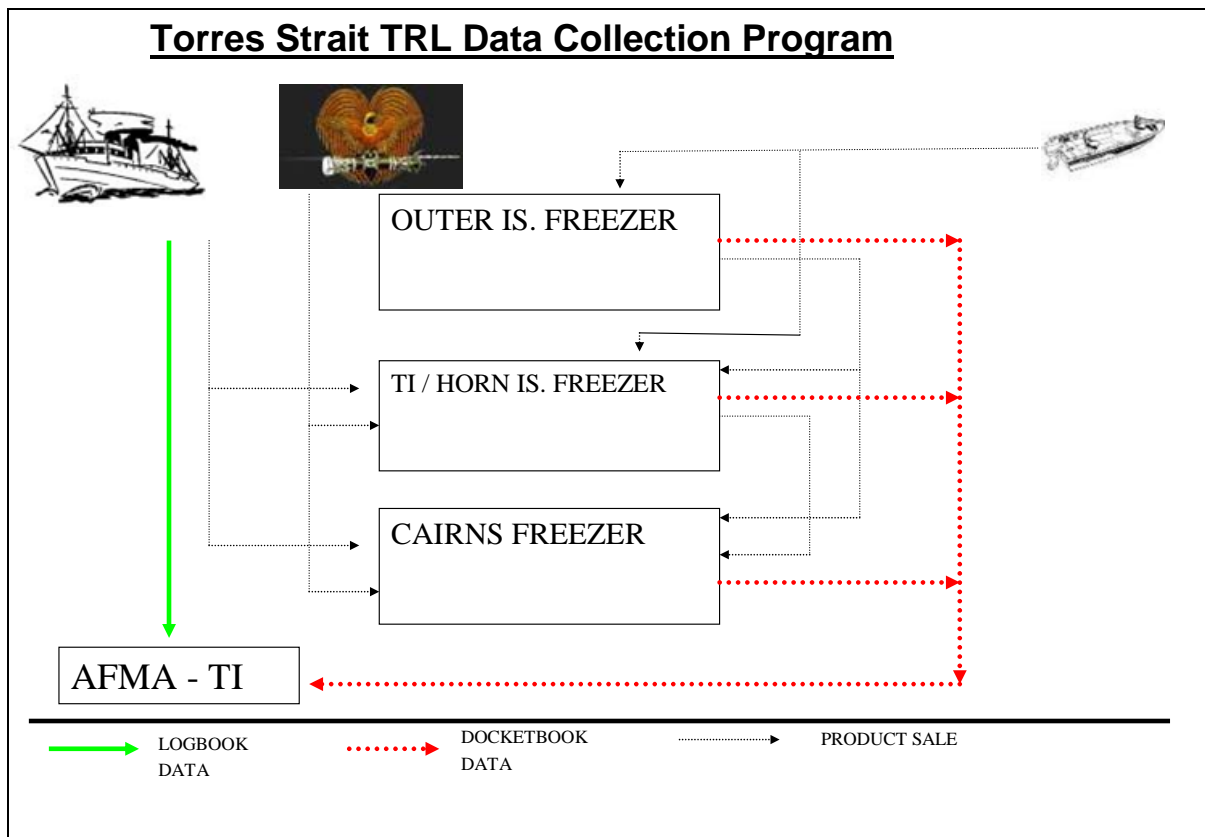
VANESSA MOORE

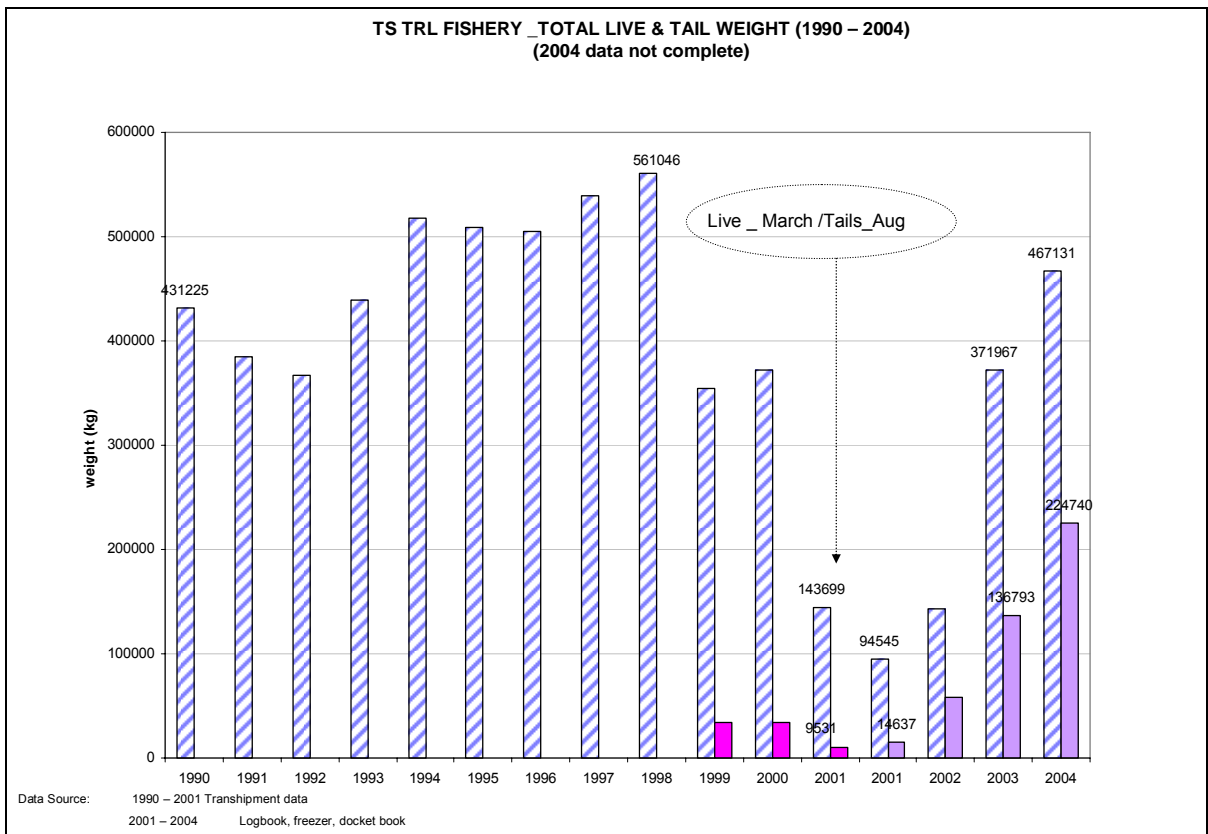
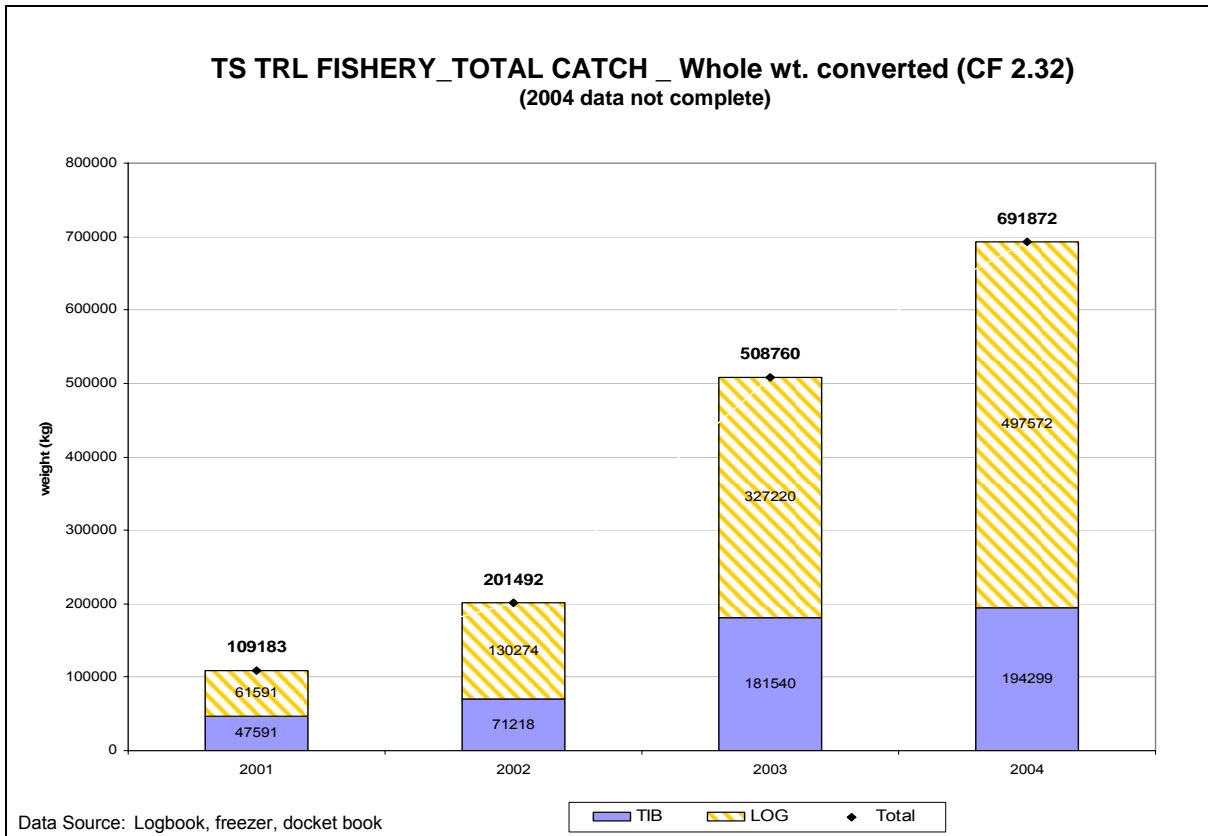
**TRL WG 10/11 March 05
Pearls Building Thursday Island**

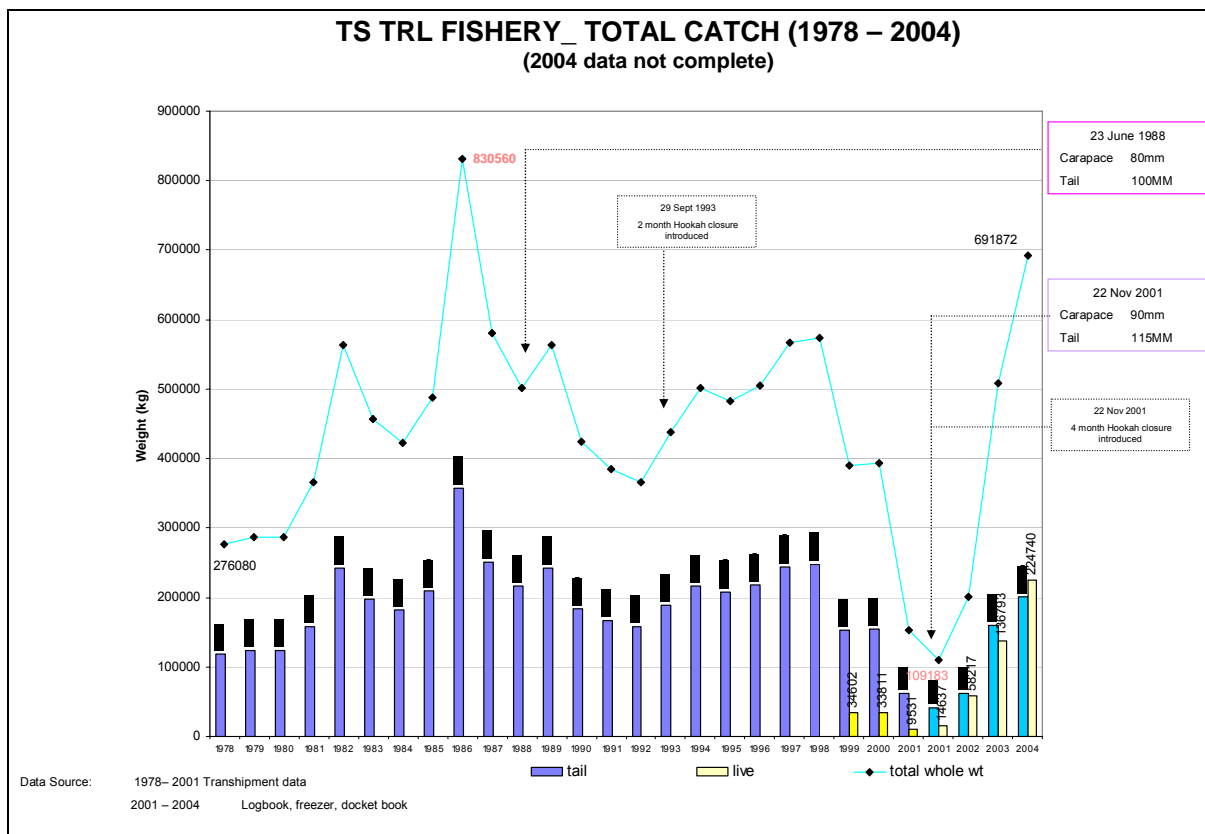
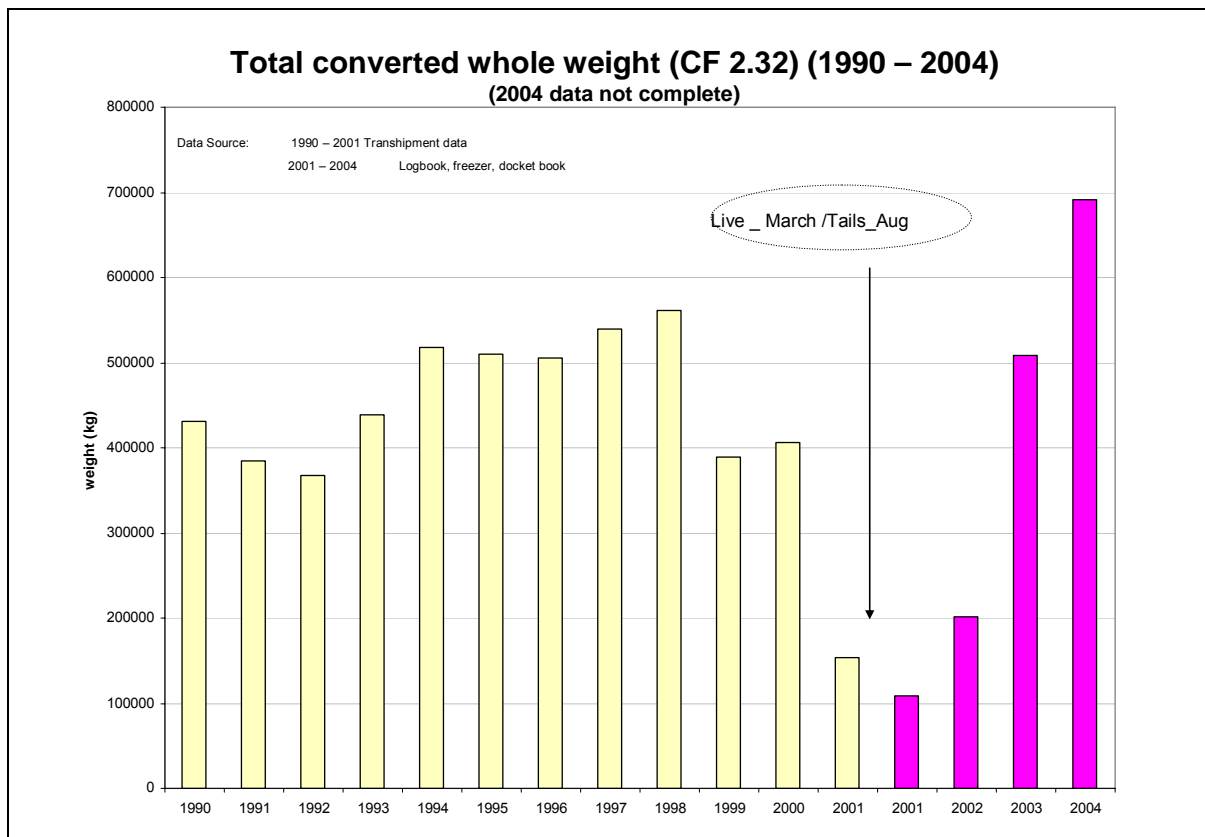
This summary was provided for the Torres Strait TRL WG meeting. The information contained is not complete & should be considered as work in progress.

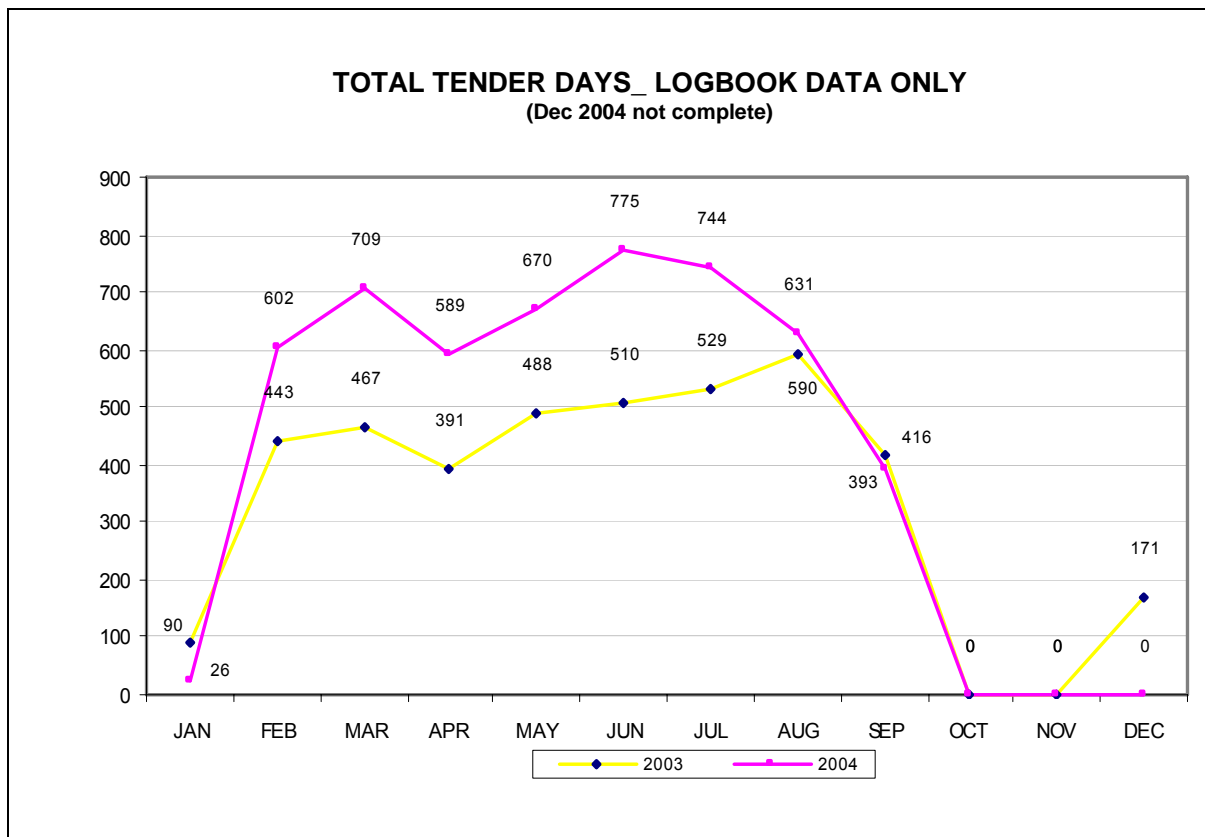
TS Catch data – background

- **Historically**
 - Transshipment data – Tails * (used to calculate historical catch)
 - QANTAS data – Live * (used to calculate historical catch)
 - Freezer logsheets
 - Logbook data
- **Currently - 3 data sources**
 1. **Logbook data**
 - Freezer boats
 2. **Freezer data**
 - Buyers of TS Seafood located in Cairns, TI & Outer Islands
 - Invoices, Freezer data sheets etc.
 - Freezer boats, TIB & Processors
 3. **TS Seafood Buyers & Processors Docket Book**
 - Introduced in Dec 2003
 - Data collected from TI, Cairns & outer island buyers
 - Freezer boats, TIB & Processors









Tender days comparison

(Dec 2004 not complete)



	2003	2004	
Total Tender days	4095	5139	(1044)
Activated licences (4 licences)			966
Increased effort (11 licences)			526
Reduced effort (9 licences)			- 448
No Boat Status (4)			



The following decisions were made by the PZJA by correspondence on 23 December 2005:

With respect to the Torres Strait Tropical Rock Lobster (TRL) Fishery,

- 1.1 the PZJA **AGREED** to:
 - (a) carry over the 30% reduction in the TVH sector as it was implemented in 2005;
 - (b) maintain a cap on Traditional Inhabitant Boat (TIB) licences greater than six metres with a CR endorsement, that is, to not grant new licences for TIB licensed lobster boats of greater than six metres in length; and
 - (c) prohibit the use of hookah to take rock lobsters for a period of approximately seven days each month corresponding with the strongest spring tides from February to September, inclusive.
- 1.2 the PZJA **CONFIRMED** its intentions to implement long-term management arrangements in the tropical rock lobster fishery according to the Project Plan with a view to introducing a quota management system at an appropriate time in 2007.
- 1.3 The PZJA **NOTED**:
 - (a) the non-community commercial sector has renewed its interest in allowing the trading of tenders between licence packages which is prevented by PZJA policy; and
 - (b) Management's advice is to consider this issue in the context of the management plan for the fishery which will take effect in 2007.

Torres Strait Protected Zone Joint Authority

PROJECT PLAN FOR DEVELOPING 2007 MANAGEMENT ARRANGEMENTS

November 2005

It is clear following the July 2005 PZJA 18 meeting that new resource allocation, and management arrangements to underpin that resource allocation, are required in the Tropical Rock Lobster (TRL) Fishery and the Finfish Fishery. As agreed at PZJA17 (February 2005), new arrangements are also required to reduce effort in the Torres Strait Prawn Fishery to a sustainable level.

These new arrangements should provide certainty to industry, give effect to Australia's fisheries obligations to Papua New Guinea (PNG) and Torres Strait Islanders under the Torres Strait Treaty, deliver equitable resource distribution between the commercial and community fishing sectors and achieve improved fisheries resource sustainability consistent with the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In accordance with the decisions made at PZJA 18 (Attachment A), the following statements outline a broad project plan, indicative timetable, traditional inhabitant and industry communication strategy, and explanation of the PZJA's expectations.

Tropical Rock Lobster (TRL) fishery:

- **A quota management system (QMS) will be implemented in 2007.**

The exact commencement date will be from the start of the quota season, which will be defined after developing details of the QMS in conjunction with the Working Group. Relevant considerations of the quota season start date include:

- Ability of researchers to prepare and present stock assessment results;
- Seasonal and market conditions; and
- Administrative capacity of agencies.

- **Details of the QMS will be developed by the PZJA agencies in consultation with stakeholders, commencing in 2006.**

Consultation with stakeholders on details of the proposed QMS will commence in early 2006 after the PZJA 18 decisions are publicly announced. The consultation will be an iterative process, involving TRL Working Group meetings and other discussions.

- **The QMS will apply to all commercial fishers catching TRL.**

The QMS will cover both non-indigenous commercial and indigenous commercial fishing for TRL in the Australian area of the Torres Strait Protected Zone. PNG's fishing rights under the Torres Strait Treaty will be taken into consideration in developing the QMS.

- **The QMS will not apply to traditional (non-commercial) fishing for TRL.**

The traditional take of TRL by indigenous people and general recreational fishers will not be monitored, since this is thought to be a very small quantity, and will be accounted for in setting TACs (by considering whatever information is available) but will not form part of the formal QMS.

- **At the commencement of the QMS, shares of the Australian TAC will be allocated 50:50 between traditional inhabitants and non-traditional inhabitant commercial fishers.**

This initial adjustment to 50:50 is to be achieved through a voluntary open tender process, prior to the commencement of the QMS.

- **In the longer term, the share of the Australian TAC will move towards 70:30 between traditional inhabitants and non-traditional inhabitant commercial fishers.**

This move to a greater traditional inhabitant share of the fishery will be achieved through an open market and stakeholder self-funded process, following commencement of the QMS in 2007. In order to facilitate such a move the PZJA will establish trading rules.

- **Advice on interim arrangements that could be implemented in 2006 as part of the progression to a QMS will be provided to the PZJA in April 2006 (PZJA 19).**

There is insufficient time available to consult in late 2005 following public release of the PZJA 18 decisions. However, some interim arrangements, such as catch reporting documentation and monitoring requirements, could be trialled in 2006.

- **Advice will be provided to PZJA 19 on the effort restrictions that would need to be applied in 2006 in order to pursue a more sustainable level of catch prior to the introduction of a QMS.**

Although we will not have the mechanisms in place to enforce a TAC in 2006, we will be carrying out stock assessment surveys in November/December 2005 to provide a basis for estimating the relative size of the TRL stock. Based on the survey results, we aim to estimate a 'nominal TAC' based on a sustainable catch level, and note catches in 2006 against this, as a result of the existing effort controls.

- **An independent Allocation Advisory Panel will report to the PZJA, no later than mid August 2006, with recommendations for how quota should be allocated to commercial fishers (individuals or licences).**

Composition, Terms of Reference and timings for the Allocation Advisory Panel will be decided upon at PZJA 19.

Advice will be sought from the TSRA on whether this allocation advisory panel, or some other TSRA process, should be used to provide recommendations on quota allocation within the traditional inhabitant commercial sector.

- **Details of the proposed QMS will be packaged into an implementation plan and submitted to the PZJA for consideration in April 2006 (PZJA 19).**

The package will include: principles and the process for setting the TAC, an allocation process for both the traditional and non-traditional inhabitant sectors, quota management arrangements, and trading rules to facilitate the transfer of access from non-traditional inhabitants to traditional inhabitants. This package will be fully costed and in a suitable format to go forward as drafting instructions for a formal management plan under the *Torres Strait Fisheries Act 1984*. Details of the allocation formula will be finalised on October 2006, and a TAC recommended in December 2006, both for decision by the PZJA at its meeting in April 2007.

Finfish (reef line and Spanish mackerel) fishery:

- **Longer term management arrangements for finfish will be developed to commence in 2007.**

Unlike the Tropical Rock Lobster fishery, it is yet to be decided whether these arrangements will be in the form of a catch quota, or effort management system. Agencies will develop a preferred option as soon as possible in 2006. It is likely that agencies will also provide interim advice to PZJA members of the preferred option to identify any significant Member concerns prior to April 2006.

A progress report on the preferred option and proposed management arrangements to give effect to the option will be presented to PZJA in April 2006 (PZJA 19). This will be developed into a single packaged document including: principles and the process for setting the TAC or TAE, an allocation process for both traditional and non-traditional inhabitant sectors, quota management arrangements, and trading rules to facilitate the transfer of access from non-traditional inhabitants to traditional inhabitants. This package will be fully costed and in a suitable format to go forward as drafting instructions for a formal management plan under the *Torres Strait Fisheries Act 1984* for consideration at PZJA 20.

- **At the commencement of the longer term arrangements in 2007, shares of the Australian TAC or TAE will be allocated 50:50 between traditional inhabitants and non-traditional inhabitant commercial fishers.**

This initial adjustment to 50:50 is to be achieved through a voluntary open tender process, prior to the commencement of the longer term management arrangements in 2007.

- **In the longer term, the share of the Australian TAC or TAE will move towards 70:30 between traditional inhabitants and non-traditional inhabitant commercial fishers.**

This move to a greater traditional inhabitant share of the fishery will be achieved through an open market and stakeholder self-funded process, following commencement of the longer term management arrangements in 2007.

- **An independent Allocation Advisory Panel will be formed during 2006 to provide recommendations to the PZJA on how quota or effort units of access should be allocated to commercial fishers (individuals or licences).**

Advice will be sought from the TSRA on whether this allocation advisory panel, or some other TSRA process, should be used to provide recommendations on allocation within the traditional inhabitant commercial sector.

- **During 2006 there will be further discussion on implementation of the 10nm zone (agreed at PZJA18) for non-traditional inhabitant commercial fishers in eastern Torres Strait for 2007 implementation. Community (traditional inhabitant commercial) fishers would be allowed to continue fishing in these exclusion zones.**

The 10nm zone will apply to the area around Murray (Mer), Darnley (Erub), Yorke (Masig) and Stephen (Ugar) Islands and will close waters within a radius of 10nm from the mid point of the islands; with the centre point to be described in degrees and decimal minutes in accordance with the WGS84 datum.

- **The potential for a live finfish fishery will be further considered once the new finfish management arrangements and resource allocation decisions have been implemented in 2007.**

Following the implementation of the management system and achievement of the change in resource allocation, the PZJA expects to consider a live fishery for finfish in Torres Strait.

Torres Strait Prawn Fishery:

- **The Commonwealth Department of Agriculture, Fisheries and Forestry (DAFF), on behalf of the Australian Government has concluded an agreement for the permanent surrender of Torres Strait Islander prawn access rights.**
- **PNG has advised that it is not prepared to sell existing prawn access rights back to the Australian Government.**

The Australian Government has therefore committed to seeking access rights from Australian Commercial fishers to formalise the access rights held by PNG.

- **The PZJA has decided to reduce effort in the Prawn fishery in line with scientific advice.**

Current scientific advice is that the maximum total amount of fishing effort that is considered sustainable is 9197 days (for all participants in the TS Prawn Fishery, including PNG). The Department of the Environment and Heritage has also made it clear that effort reductions according to a clear timeframe will be required and the process to achieve this must commence by 2006 – this plan gives effect to DEH's recommendation.

The PZJA has agreed that:

- Licences will be granted for the 2006 season with pro-rata reductions to an overall cap of 9197 days, which is consistent with scientific advice;
 - The fishery will move to a unitised system where fishing access is a proportion of the sustainable available resource. These new management arrangements will be developed over the course of 2006 to commence in the 2007 season;
- **The Australian Government has agreed to offer to purchase fishing entitlements from Australian commercial fishers equivalent to PNG's share of the prawn fishery**

Together with developing a unitised system, the Australian Government will fund payments through an open tender process to ensure that the Australian Government is able to fully meet its obligations to Papua New Guinea under the Treaty without making further calls on fishing rights allocated to domestic operators (as announced on 27 July 2005). This is scheduled to occur in the first half of 2006.

- **Details of the proposed new management arrangements will be packaged into a single document and submitted to the PZJA for consideration in April 2006 (PZJA 19).**

The package will include details of the proposed new management arrangements, including the transition process for moving from the existing system of fishing nights to the new system involving units and access as a proportion of the total pool of available fishing nights. This package will be fully costed and in a suitable format to go forward as drafting instructions for a formal management plan under the *Torres Strait Fisheries Act 1984*.

Other Torres Strait Fisheries:

- **The PZJA agencies will continue to develop appropriate management arrangements for all other Torres Strait Fisheries as necessary, noting that these were not subject to specific mention or priority, from the PZJA at PZJA 18.**

There are significant issues in relation to management of the turtle and dugong fishery and other fisheries such as sea cucumber, pearl shell and trochus, which are very important to Torres Strait traditional inhabitants. It is acknowledged that management of these other fisheries must continue, while the agencies keep a clear priority on meeting the PZJA expectations for the TRL, TS Prawn and finfish fisheries.

Governance arrangements and project delivery:

A PZJA cross-agency team (Management Arrangements Team 2007), with a member from each agency, will coordinate the various components of developing the new management arrangements, including consultations with the TSFMAC and Working Groups, and the preparation of draft documents for the PZJA Standing Committee and ultimately the PZJA.

The PZJA Standing Committee, consisting of a Senior Executive Officer from each of the four PZJA agencies (TSRA, DAFF, AFMA, QDPIF), was established in early 2005 to assist with the coordination of papers and recommendations going to the PZJA. The PZJA Standing Committee will be used throughout this project as the main avenue for supporting the PZJA delivery of the project.

The agencies have agreed to act as project coordinators in assisting the PZJA with implementing the following aspects of the PZJA Project Plan:

- a) AFMA – management arrangements (including consideration of compliance and monitoring requirements) for the Tropical Rock Lobster and Prawn Fisheries;
- b) QDPIF – management arrangements (including consideration of compliance and monitoring requirements) for Finfish;
- c) DAFF – legislative amendments, the allocation panel process, funding payment to the Torres Strait Islanders in return for their Torres Strait Prawn Fishery licences, implement the Australian Government's 27 July 2005 press release for PNG access to the Australian share of the Prawn Fishery, tender processes in the TRL and Finfish fisheries, and developing trading specifications;
- d) TSRA – information management and resource allocation within the Torres Strait Islander community.

The administrative supporting arrangements for the PZJA are outlined in Figure 1 below.

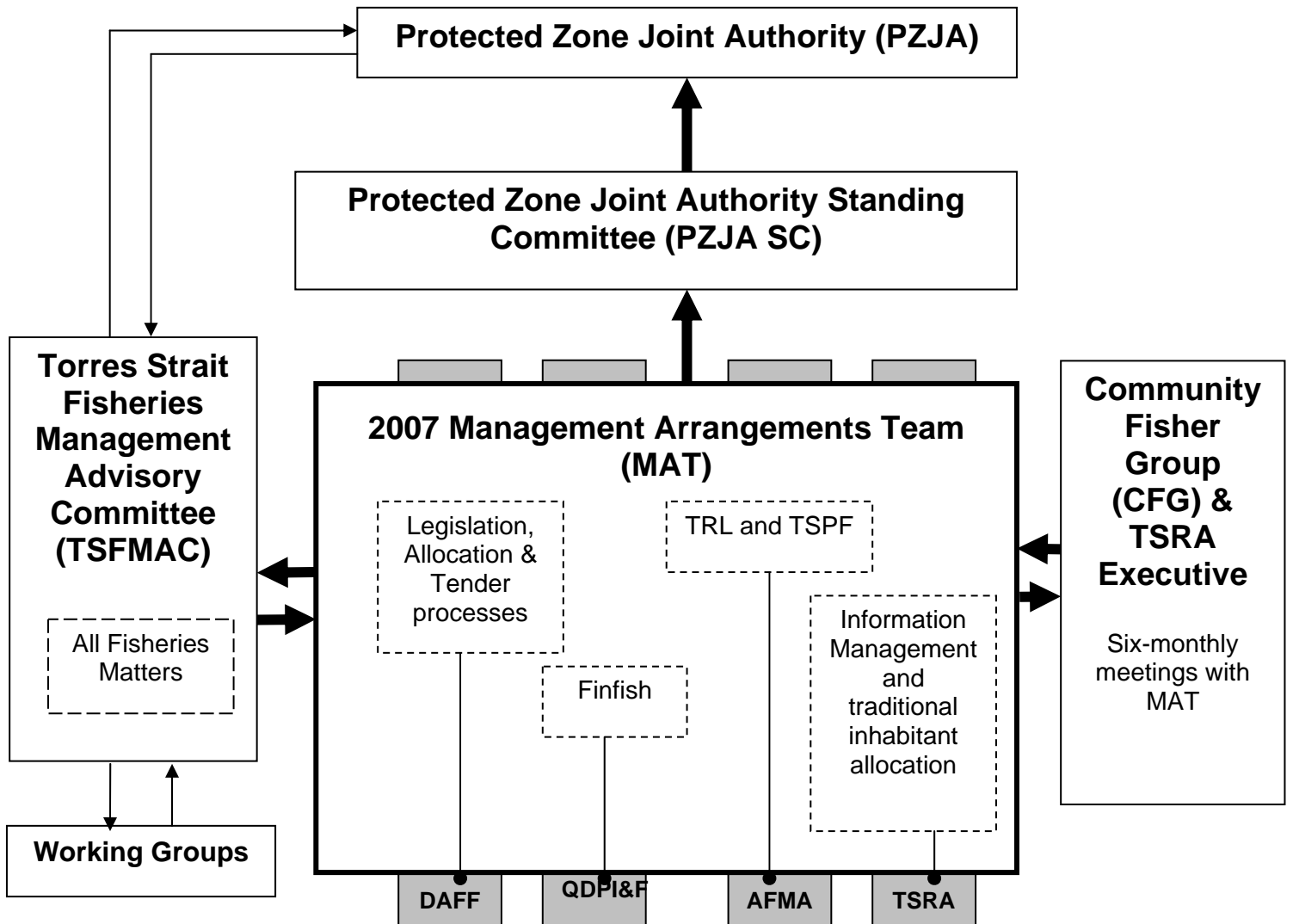


Figure 1. A diagram showing the key administrative linkages involved in delivering the PZJA 2007 management arrangements project.

Indicative timetable and key decision points for the PZJA:

The PZJA Agencies have developed the following indicative timetable, showing key processes and meeting times required for PZJA further decisions on details of the proposed management arrangements. It is critical that the relevant PZJA decisions are made at the times indicated in the following five-stage process, and that those decisions are publicly announced within preferably two weeks of the meetings, if the proposed new management arrangements are to be implemented in 2007.

Commencement: July 2005

PZJA 18 Meeting - July 2005

Decisions were made regarding future management arrangements and resource sharing

Stage 1: July to October 2005

Agencies: Develop a project plan, timetable and articulate their understanding of the PZJA's expectations

Key documents for PZJA consideration:
Project plan, timetable and statement of expectations

PZJA decisions required:

1. Confirm funding commitments for resource allocation and timing of prawn tender process
2. Clarify that the project plan meets the PZJA expectations
3. Agree to the proposed timetable and schedule of future PZJA meetings
4. Agree to public release of future PZJA decisions within preferably 2 weeks
5. Public release of the outcomes of PZJA 18

PZJA - Out-of session decisions – November 2005

Stage 2: November to December 2005

Agencies: Consult with the Prawn Working Group to about implementation of the PZJA prawn decision on a fishing effort cap of 9197 days for 2006 and to move to unitisation, together with open tender process to account for PNG entitlements under the Treaty.

Advise all stakeholders of the PZJA July 2005 decisions and the process for developing 2007 management arrangements through port meetings in November as shown in Table 1.

Consult TRL and Finfish stakeholders of proposed 2006 management arrangements through port meetings as shown in Table 1.

Table 1. Proposed consultative schedule

Date	Location	Meeting
Monday 7/11	Yorke Island	Finfish Port Meeting
Tuesday 8/11	Thursday Island	TRL Port Meeting
Wednesday 9/11	Thursday Island	CFG meeting
Thursday 10/11	Cairns	PWG (1.30 pm – 7 pm)
Friday 11/11	Cairns	TRL & Finfish Port meeting

Key documents for PZJA consideration:

Recommendations for 2006 management arrangements for TS Prawn, TRL, Finfish and other fisheries

Description of a draft generic Management Plan (under the *Torres Strait Fisheries Act 1984*)

Terms of reference, composition and timings for an independent Allocation Advisory Panel to determine options for allocation within non-islander commercial fishing sectors.

Documentation necessary to conduct a tender process for the prawn fishery.

PZJA decisions required:

1. Agree to the ToR, composition and timing of the Allocation Advisory Panel
2. Agree to 2006 management arrangements for the TRL fishery (including a nominal TAC, to be implemented through equivalent effort controls). The expected arrangements are outlined in Attachment B
3. Agree to 2006 management arrangements for the Finfish fishery. The expected arrangements are outlined in Attachment C
4. Agree on the documentation necessary to conduct a tender process for the prawn fishery.
5. Approve agencies to undertake consultation on the future management mechanism (TAE or TAC) for the Finfish fishery and develop an option for the April 2006 PZJA meeting.
6. Note progress on the description of a draft generic management plan
7. Agree to public release of the decisions of this meeting within preferably two weeks

PZJA Meeting –December 2005 (Held out of session)

Stage 3: January to April 2006

Agencies: Implement the PZJA decisions on arrangements for the 2006 fishing seasons in TRL, TS Prawn, Finfish and other fisheries

Consult with stakeholders to develop advice on 2007 management arrangements (including compliance and monitoring) for TS Prawn, TRL and Finfish

Commence tender for prawn fishery

Key documents for PZJA consideration:

Drafting instructions (information packages) for the TRL and TS Prawn fishery management plans.

Progress report on the development of finfish arrangements

Documentation required by DEH to confirm ongoing strategic assessment approval, following the commencement of changed management arrangements for the TS Prawn, TRL and Finfish fisheries.

PZJA decisions required:

1. Note progress on developing draft management plans for 2007 for the TS Prawn, Finfish and TRL fisheries
2. Approve release of documentation required by DEH to confirm ongoing strategic assessment approvals (TS Prawn, TRL and Finfish fisheries)
3. Agree to public release of the decisions of this meeting within preferably two weeks

PZJA 19 Meeting – April 2006 (exact date to be advised)

Stage 4: May to October 2006

Agencies: Consult with stakeholders and Attorney General's Department to prepare final draft management plans (including compliance and monitoring) for the TS Prawn, TRL and Finfish fisheries

Consult with stakeholders and Office of Regulatory Review on discussion regulatory impact statements (RIS) for the TS Prawn, TRL and Finfish fisheries

Consult with stakeholders and finalise the draft strategic assessment reports for the TS Prawn, TRL and Finfish fisheries

Run the Allocation Advisory Panel process to develop advice for the PZJA

Finalise the prawn tender process

Finalise requirements for the tender process (including tender documents to be released) and select entity to conduct the tender for TRL and finfish

Key documents for PZJA consideration:

Final draft management plans for TS Prawn, TRL and Finfish fisheries

Final tender documents and nomination of entity to conduct the tender

Final strategic assessment documentation taking into account DEH advice for the TS Prawn, TRL and Finfish fisheries

Final report on allocation from the independent Allocation Advisory Panel

PZJA decisions required:

1. Agree on final draft management plans for TS Prawn, TRL and Finfish
2. Approve final strategic assessment documentation taking into account DEH advice for the TS Prawn, TRL and Finfish fisheries
3. Agree on the allocation formula for transferring to the new access rights in the TS Prawn, TRL and Finfish Fisheries
4. Release documents for the TRL and Finfish tender process
5. Agree to public release of the decisions of this meeting within preferably 2 weeks

PZJA 20 Meeting – October 2006 (exact date to be advised)

Stage 5: November 2006 to April 2007

Agencies: Legislatively commence the management plans for the TS Prawn, TRL and Finfish fisheries

Finalise the regulatory impact statements (RIS) for the TS Prawn, TRL and Finfish fisheries

Run the tender process for TRL and Finfish

Seek the Minister for the Environment and Heritage's decision on the strategic assessments of the TS Prawn, TRL and Finfish fisheries

Prepare information for PZJA decision on the allocation of access rights through new fishing licences in accordance with the management plans for TS Prawn, TRL and Finfish fisheries

Manage the appeals process, following the grant of 2007 fishing licenses in the TRL, TS Prawn and Finfish fisheries

Run stock assessments in consultation with stakeholders and develop recommendations to the PZJA for a 2007 TRL TAC, 2007 TS Prawn TAEs and 2007 TACs or TAEs for the Finfish fishery

Key documents for PZJA consideration:

Progress reports on the commencement of the management plans, tender process documents, decisions by the Environment and Heritage Minister on strategic assessments, implementation of licensing arrangements and appeals for 2007

Stock assessment reports and recommendations for implementing a 2007 TRL TAC, 2007 TS Prawn TAEs and 2007 TACs or TAEs for the Finfish fishery

PZJA decisions required:

1. Approve the regulatory impact statements (RIS) for the TS Prawn, TRL and Finfish fisheries
2. Agree on a 2007 TRL TAC, 2007 TS Prawn TAEs and 2007 TACs or TAEs for the Finfish fishery
3. Agree on the final tender bids to accept
4. Agree on the allocation of access rights through new fishing licences in accordance with the management plans for TS Prawn, TRL and Finfish fisheries
5. Note progress on the commencement of the Management plans, decisions by the Environment and Heritage Minister on strategic assessments, implementation of licensing arrangements and 2007 appeals
6. Agree to public release of the decisions of this meeting within preferably two weeks

PZJA 21 Meeting –April 2007 (exact date to be advised)

Information flow, consultation and managing stakeholder expectations

Success in developing and implementing these new management arrangements will require a high level of consultation and commitment to ongoing communication with all stakeholders involved in the Torres Strait fisheries.

The PZJA consultative process of working group meetings, TSFMAC meetings and stakeholder forums will be used to provide information to all stakeholders involved in the Torres Strait fisheries. Port visits will also be used to provide information to those industry stakeholders who may not be part of the established consultative process.

In addition to the routine PZJA consultative processes that are already in place for all stakeholders, the Torres Strait Regional Authority has primary carriage of an information strategy for Torres Strait indigenous inhabitants and will work closely with the other PZJA agencies in working with other stakeholders. The TSRA will maintain constant contact with traditional fishers to ensure their involvement in the implementation process.

The information management strategy will commence with the official announcement of the PZJA 18 decisions and this Project Plan. In addition to direct ongoing dialogue with all stakeholders, the PZJA Agencies will provide information through the Torres Strait Community radio, Media Releases, TSRA Newsletter and Chairman's column in the Torres Strait News.

It is proposed that the 2007 Management Arrangements Team meets and consults with the traditional inhabitant Community Fisher Group (CFG) and TSRA Executive on Thursday Island at six monthly intervals, with the first meeting on 9 November 2005.

Consultations will also need to be taken to the communities by an AFMA/TSRA/CFG delegation with timing to be agreed on between AFMA and TSRA.

Supplementary information will be provided to explain the significance of the decision to the Torres Strait and the traditional inhabitants and to keep them informed of the steps being taken to implement the decision. There is very limited understanding of quota management and effort management arrangements being contemplated in Torres Strait Fisheries and TSRA will need to encourage Community Fishers to look for a way forward by discussing the approaches needed to achieve the desired outcome.

ATTACHMENT A - Relevant PZJA 18 Decisions

The Torres Strait Protected Zone Joint Authority (PZJA), as the body responsible for fisheries management in the Australian area of jurisdiction of the Torres Strait Protected Zone (TSPZ) has recognised the imperative for new management arrangements in the TRL and Finfish Fisheries in the following decisions.

Resource Allocation in Torres Strait Fisheries

The PZJA, having considered the overall aims of the Torres Strait Treaty and the *Torres Strait Fisheries Act 1984* (including the obligations under Article 26 of the Treaty to have regard to the desirability of promoting economic development in the Torres Strait area and employment for the traditional inhabitants and to share with PNG the allowable catch of the Protected Zone commercial fisheries listed under Article 22 of the Treaty), **have agreed** that in respect of the Australian share of the fisheries in the Torres Strait Protected Zone and the fisheries in the outside but near area:

- 1 For the Tropical Rock Lobster fishery to transition towards greater traditional inhabitant allocation on the following basis:
 - a) as soon as practically achievable a 50:50¹ resource allocation with adjustment to be achieved through the purchase of non-islander licences in the Australian share of the fishery by an open tender process. Funding to be provided in equal shares by the three PZJA members subject to relevant Treasury and Finance approvals; and
 - b) in the longer-term a target of 70:30² through an open market and self funded process. Trading rules to facilitate the transfer from the non-traditional inhabitant sector to the traditional inhabitant sector will be developed and considered by PZJA in mid 2006.
- 2 For the Reefline and Spanish mackerel fisheries to greater traditional inhabitant allocation:
 - a) as soon as practically achievable a 50:50³ resource allocation with adjustment to be achieved through an open tender process. Funding subject to Commonwealth Finance approvals;
 - b) in the longer-term a target of 70:30⁴ through an open market and self funded process. Trading rules to facilitate the transfer from the non-traditional inhabitant sector to the traditional inhabitant sector will be developed and considered by PZJA in mid 2006;
 - c) implement a 10 nm zone⁵ for non-traditional inhabitant fishers in the area around Murray (Mer), Darnley (Erub), Yorke (Masig) and Stephen (Ugar) Islands;
 - d) to develop and implement arrangements to cost effectively control the commercial take of fish (consistent with PZJA 18 decision 3(b) on effort and catch controls in Finfish Fishery) by end of 2006 to be recommended by the FWG; and

^{1, 2, 3, 4} traditional inhabitant: non-traditional inhabitant

⁵ The zone to be a closure with a radius of 10nm from the mid point of the islands; the centre point to be described in degrees and decimal minutes in accordance with the WGS84 datum where non-traditional inhabitant fishers will be prohibited from taking certain species.

- e) a decision to revisit the issue of a live fish fishery in the Torres Strait, subject to achievement of 2(d), at PZJA 20

Tropical Rock Lobster Fishery Quota Management

- 2. That the PZJA AGREED to implement a full quota management system in TRL Fishery for 2007 onwards.
- 3. That the PZJA AGREED that fisheries managers consult with the TRL Working Group members to develop:
 - a) a detailed implementation plan and costing for PZJA 19 consideration including:
 - i. ensuring the system is appropriate to the scale and status of the fishery;
 - ii. capacity for effective enforcement;
 - iii. implications for stocks and fishers in adjacent jurisdictions;
 - iv. research to support setting of a TACC; and
 - v. legislative changes required.
 - b) Following the development of a detailed implementation plan and costing, officials are to report back to PZJA out-of-session for a decision on those aspects of a QMS that can be introduced and funded for the 2006 season.

Finfish Fishery Working Group and TSFMAC Recommendations

- 3. The PZJA agreed:
 - b) to refer the issue of identifying an appropriate catch or effort control mechanism back to the Working Group to explore the merits of ITQs and ITEs; and
 - c) that the Working Group develop a detailed implementation plan and costing of their preferred mechanism for consideration at PZJA 19 with a view to implementing them as per the PZJA decision 2(d) on resource allocation. The implementation plan will include:
 - i. ensuring the system is appropriate to the scale and status of the fishery;
 - ii. ensuring capacity for effective enforcement;
 - iii. assessing implications for stocks and fishers in adjacent jurisdictions;
 - iv. conducting research to support setting of a Total Allowable Commercial Catch (TACC) or Total Allowable Commercial Effort (TACE); and
 - v. identifying legislative changes required.

Torres Strait Prawn Fishery – Progress on Negotiations with TSI and PNG

The PZJA noted that the Commonwealth would make a public announcement when it is in position to do so.

ATTACHMENT B – Tropical Rock Lobster Fishery – management arrangements for 2006

The following outline of the 2006 management arrangements for the Tropical Rock Lobster Fishery will be discussed with stakeholders through open discussions (such as port meetings rather than a formal Working Group meeting) and their feedback provided to the PZJA for decision at its December 2005 meeting on the arrangements that will apply for 2006.

The proposed key management arrangements for 2006 will include continuing with the basic management arrangements that applied in 2005 with 2 proposed changes for 2006 (outlined below).

There will be no change to TIB conditions in 2006; the “30% reduction” in tender months, spring tide closures for seven days of each month and the cap on TIB boats greater than 6m will all be maintained for 2006. . In continuing with the basic management arrangements from 2005, we will continue to work with stakeholders to address the Strategic Assessment recommendations (from the Department of Environment and Heritage).

Proposed changes for 2006:

- 1. the 30% reduction in tender months will continue in 2006, however TVH operators will be asked to provide feedback to the PZJA 19 (December 2005) on 3 alternative options for implementing this reduction in 2006;**





The 30% tender reduction was developed to manage effort in the fishery until a quota system can be implemented. An earlier stock assessment demonstrated that the fishery was made more resilient to high fishing pressure by increasing the minimum size of the lobsters and the closure in October and November and banning hookah in December and January. However the same study showed that overfishing occurs at fishing mortality rates above 0.5. Therefore fishing should be controlled to keep fishing mortality less than this figure.

The following three implementation options will be put to TVH licence holders seeking their advice for the PZJA 19 (December 2005) meeting. If no clear TVH licence holder advice can be agreed, then the default option is expected to be Option 3 (which is the mechanism used in 2005):

- Option 1 licence holders nominate which 7 consecutive fishing months they wish their licences to be valid (7/10 months of season) commencing on 1 January or ending on 31 December (but including at least one hookah ban month); or
- Option 2 licence holders nominate which 6 months they want to use hookah; or
- Option 3 licence holders nominate which dinghies they intend to use for the tender months they have (in a system like the 2005 season)

Table 1: Three alternative options for implementing the 30% tender reduction in the 2006 fishing season. The following table shows how the three different options would apply to a standard 3 tender boat licence.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Hookah months	Total months
Option 1 (7 consecutive months)	■	■	■	■	■	■	■	■	■	■	■	■	6	6
	■	■	■	■	■	■	■	■	■	■	■	■	6	6
	■	■	■	■	■	■	■	■	■	■	■	■	6	6
													18	18
Option 2 (6 hookah months)	■	■	■	■	■	■	■	■	■	■	■	■	6	7
	■	■	■	■	■	■	■	■	■	■	■	■	6	7
	■	■	■	■	■	■	■	■	■	■	■	■	6	7
	■	■	■	■	■	■	■	■	■	■	■	■	18	21
	■	■	■	■	■	■	■	■	■	■	■	■	6	7
	■	■	■	■	■	■	■	■	■	■	■	■	6	7
Option 3 (nominated dinghies as per 2005)	■	■	■	■	■	■	■	■	■	■	■	■	8	10
	■	■	■	■	■	■	■	■	■	■	■	■	8	10
	■	■	■	■	■	■	■	■	■	■	■	■	0	1
													16	21

Legend:
 no fishing periods for the licence
 hookah diving months
 free diving only
 closure period

2. commencement, on a trial basis, of any initiatives that are necessary for the introduction of the quota management system in 2007.

During 2006, it may be useful to trial certain aspects of the proposed arrangements, such as quota monitoring and reporting procedures. The TRL Working Group will be encouraged to trial (and where possible, commence) the necessary supporting arrangements for the quota management system during 2006.

ATTACHMENT C – Finfish Fishery – management arrangements for 2006

The following outline of the 2006 management arrangements for the Finfish Fishery will be provided to stakeholders through open discussions (such as port meetings rather than a formal Working Group meeting) and their feedback provided to the PZJA for decision at its December 2005 meeting on the arrangements that will apply for 2006.

The key proposed management arrangements for 2006 will include continuing with the basic management arrangements that applied in 2005. In “rolling over” these arrangements, we will continue to work with stakeholders to address the Strategic Assessment recommendations (from the Department of Environment and Heritage) for the finfish fishery.

Further changes to the management arrangements, including the 10nm closures and other possible closures around particular reefs and islands, will be discussed with all stakeholders during 2006, as part of the move towards developing 2007 management arrangements.

TORRES STRAIT TROPICAL ROCK LOBSTER WORKING GROUP	Meeting Date 28 February-2 March 2006
Review of Project Plan (DAFF MAT Member)	Agenda Item No. 4 FOR DISCUSSION

PURPOSE

To provide the TRLWG with a short review of the project plan, including the responsibilities of the working group.

BACKGROUND

The PZJA Agencies developed a project plan following the decisions of the PZJA at its 18th meeting in July 2005. The project plan sets out an indicative timetable, showing key processes and meeting times required for PZJA further decisions on details of the proposed management arrangements.

The project plan has been updated to include a *Regulation Impact Statement* (RIS) process, and to reflect the change in PZJA meeting numbering as a result of the postponement of the scheduled December 2005 PZJA. The updated plan is at Attachment 1.

The project plan is now into stage three (January – April 2006), and a number of components require input by the working group. During this stage of the project plan, agencies and stakeholders need to develop advice on 2007 management arrangements (including compliance and monitoring) tropical rock lobster fishery. This issue is further developed and discussed at *Agenda Item 6* of this meeting (i.e. Quota Management System for 2007).

The key documents for PZJA consideration at its April meeting that require input from the working group include:

Drafting instructions (information packages) for the TRL fishery management plans (*Agenda Item 5*).

The decisions required at the April meeting of the PZJA associated with the TRL fishery as per the project plan are:

1. Note progress on developing draft management plans for 2007 for the TRL fishery
2. Approve release of documentation required by DEH to confirm ongoing strategic assessment approval for the TRL fishery)

There are further requirements of the working group in the later stages of the project plan that will be further discussed at future working group meetings.

RECOMMENDATION

That the TRLWG discusses the project plan and note the requirements of the working group to deliver the outcomes of the project plan.

TORRES STRAIT TROPICAL ROCK LOBSTER WORKING GROUP	Meeting Date 28 February - 2 March 2006
Management Plan	Agenda Item No. 5 FOR DISCUSSION

PURPOSE

To inform the TRLWG of the legislative basis for the proposed management plan for the Torres Strait Tropical Rock Lobster (TRL) fishery, and to provide the TRLWG with copies of the plan contents and the draft plan for discussion and comment.

BACKGROUND

At Meeting 18 the PZJA agreed:

- to implement a full quota management system in TRL Fishery for 2007 onwards.
- that fisheries managers consult with the TRL Working Group members to develop:
 - a detailed implementation plan and costing for PZJA 19 consideration including:
 - ensuring the system is appropriate to the scale and status of the fishery;
 - capacity for effective enforcement;
 - implications for stocks and fishers in adjacent jurisdictions;
 - research to support setting of a TACC; and
 - legislative changes required.
 - Following the development of a detailed implementation plan and costing, officials are to report back to PZJA out-of-session for a decision on those aspects of a QMS that can be introduced and funded for the 2006 season.

The PZJA Agencies agreed that the best mechanism to implement quota management in the TRL fishery is via a management plan for the fishery.

DISCUSSION

5.1 Legislative basis

The legislative basis for the management plan is the *Torres Strait Fisheries Act 1984* (the TSFA). However, a number of changes need to be made to the TSFA in order for the PZJA to manage Torres Strait fisheries under management plans. The MAT has been looking at the relevant sections of the *Fisheries Management Act 1991* (used to manage AFMA fisheries) as a basis for developing the TRL management plan, and these will likely constitute changes to the TSFA.

These include giving the powers of decision to the PZJA rather than the Commonwealth Minister and providing the ability for the PZJA to issue “fish receiver permits”, allow leasing of licences, and set a total allowable catch for the fishery.

5.2 Contents

The management plan is comprised of a number of parts (see Attachment 1). These include the legal framework for the management plan as well as all the management arrangements for the fishery.

5.3 Draft plan

The draft plan is included at Attachment 2. The completed plan will become a legal document, and as such is very detailed (and difficult to understand). There are only a couple of parts of the plan that the Working Group will need to focus on and provide advice to the TSFMAC on.

These are:

- Section 15 – “Traditional fishing” (p6): Need a section to allow for protection for traditional fishing, which gives traditional fishing primacy over commercial fishing, e.g. define an area such as “home reefs” for traditional fishing only.
- Division 2 – “Grant of licences” (p7): Need to add licensing policy here, including a revision/simplification of the tender rules.
- Section 17(2) – “Types of Licences” (p7): We should consider and discuss the relevance of these licences under new arrangements, especially Master Fisherman’s Licences. Since there are no competencies attached to the grant, these are merely a method of controlling participation by the one sector. Does the allocation process eliminate this need? Should there be competencies? Should consider rationalising licences.
- Section 21 – “Obligations of PNG licence holders” (p9): Do we need a whole similar section here where we specify related issues for PNG licence holders – I think so. We need to have provisions for PNG vessels to report catches before departing and to standby at defined places to be checked to verify their catches if required (licence conditions).
- Division 4 – “Places where product can be landed” (p 9): Define places where lobsters can be landed, e.g. only on Horn Island or TI. It would be a good idea to propose and get agreement that catch should not be able to be landed just anywhere. There are only so many legitimate places, these should be listed and defined. Related to this there is also going to be the need to control (through registry) live holding cages which are in widespread use around the islands. Someone will have to be responsible for the product stored in these.
- Section 24 – “Exemptions for traditional fishing” (p10): This is a good opportunity to review all the exemptions. Islanders should be given the opportunity to decide if they still think that they should be allowed to take small lobsters, lobster meat etc.
- Section 34 – “Consultation” (p11): Consultation is not mandatory under the Act... however in accordance with section 13 of the Act, the Minister may seek the views of the traditional inhabitants on the Joint Advisory Council established under Article 19 of the Torres Strait Treaty on any matter relating to the administration of this Act that may affect the interests of traditional inhabitants. Should this be made more definitive?
- Conditions on licences (p16) – “Single purpose trips”: Should traditional inhabitants undertaking commercial fishing trips be allowed to retain traditional catch as well? May need a prohibition to prevent take of turtles and dugongs while traditional inhabitants are fishing for commercial purposes.
- Conditions on licences (p16) – “Single jurisdiction trips”: the movement of dual-licensed (TS and Qld) boats in and out of the fishery should be controlled – need a requirement for them to report when entering or leaving the area of the fishery, and no catch on board when entering the area of the fishery.

Members would have noted above that there are many questions asked and ruminations about some of the arrangements that should be enshrined in the plan – these were deliberately left in the document and should emphasize the opportunities to reconsider many issues and give members genuine opportunities to contribute to the final document.

RECOMMENDATION

That the TRLWG notes the legislative basis for the proposed management plan for the TRL fishery.

That the TRLWG considers the plan contents and the draft plan and provides advice on these to the TSFMAC.

Torres Strait Tropical Rock Lobster Management Plan 2007

Contents

Part 1 Preliminary

- 1 Name of Management Plan
- 2 Commencement
- 3 Definitions
- 4 Geographical coordinates
- 5 Objectives
- 6 Measures by which objectives are to be attained
- 7 Performance criteria/indicators to assess measures taken
- 8 Persons to whom the Management Plan applies
- 9 Duration
- 10 Review of Management Plan

Part 2 Fishing licences

Division 1 Right to fish in the fishery

- 11 Who may participate in the fishery
- 12 Quantity that may be taken
- 13 Obligation relating to overcatch
- 14 Fishing methods
- 15 Traditional fishing
- 16 Scientific research

Division 2 Grant of licences

- 17 Grant of licences

Division 3 Obligations of licence holders

- 18 Nomination of a boat by a holder of a fishing licence
- 19 Other obligations of licence holders
- 20 Obligations relating to interactions with certain species and communities
- 21 Obligations of PNG licence holders

Division 4 Places where product can be landed

- 22 Landing places

Division 5 Directions not to engage in fishing

- 23 Directions by the Minister
- 24 Exemptions for traditional fishing

Division 6 Transfer and lease of licences

- 25 Duration, transfer, renewal and variation of licences
- 26 Lease of licences
- 27 Suspension and cancellation
- 28 Fees

Part 3 Total allowable catch

- 29 Reference points
- 30 Determination of total allowable catch
- 31 Amendment of total allowable catch
- 32 Apportionment

33 Allocation of units

34 Consultation

Part 4 Penalties

35 Penalties

Part 5 Miscellaneous

36 Registers

37 Delegation

38 Agents

39 Notices

Part 6 Transitional

40 Transitional

Part 7 Other prohibitions

Schedule 1 Area of the fishery

Schedule 2 Species

Schedule 3 Method of measurement

Conditions on licences

Logbooks

Provision under Regulation 10 of *Torres Strait Fisheries Regulations 1985*.

Must complete a logbook. Logbook = the Tropical Rock Lobster Logbook – TRL04.

Position

To report location of boat & entry/exit of jurisdiction – pre-departure reporting, post-fishing reporting, ICVMS? [provision in s14(2A)]

Sale and disposal of fish

To report quantities of fish received from another person [provision in s14(3)]; providing for furnishing of returns in relation to taking of fish and the sale or disposal of those fish – both in areas of Australian jurisdiction and with the use of Australian boats in areas of PNG jurisdiction [s60(1)(n)(i) & s60(1)(n)(iii)].

Transshipping

Prescribing rules to be observed & requiring returns for fish taken both in areas of Australian jurisdiction and with the use of Australian boats in areas of PNG jurisdiction.

Processing

To require returns for processing and sale/disposal of fish taken both in areas of Australian jurisdiction and with the use of Australian boats in areas of PNG jurisdiction.

Single purpose trips

Should traditional inhabitants undertaking commercial fishing trips be allowed to retain traditional catch as well? May need a prohibition to prevent take of turtles and dugongs while traditional inhabitants are fishing for commercial purposes.

Single jurisdiction fishing

The movement of dual-licensed (TS and Qld) boats in and out of the fishery should be controlled – need a requirement for them to report when entering or leaving the area of the fishery, and no catch on board when entering the area of the fishery.

Advice from AFMA Licensing: If it is something that you want to have fishery wide and it will not change in the future it should be in the Management Plan. If it is something that will change in the future or if it exemptions apply for specific operators it is best to be in the permit/SFR conditions for the fishery. This is because it is harder to change a section in a Management Plan compared to amending the conditions on permits/SFRs.

Torres Strait Tropical Rock Lobster Management Plan 2007 (Draft plan with many comments and questions)

Contents

Part 1 Preliminary

1 Name of Management Plan

Torres Strait Tropical Rock Lobster Management Plan 2007(?).

2 Commencement

Commences on the day after it is registered.

3 Definitions

The PZJA considers that the following definitions will be required under the Management Plan (the terms have the same meaning as defined in the Torres Strait Treaty or the Act where they are common to the Treaty and/or Act):

Act means the *Torres Strait Fisheries Act 1984*.

acting for a person, means acting with the consent of, and on behalf of, the person.

agent, of the holder of a licence, means:

- (a) a person responsible for the affairs and property of the holder under a law of the Commonwealth, a State or a Territory, including a receiver, liquidator, trustee or guardian of the holder, or an executor or administrator of the holder's estate; or
- (b) a person appointed as the holder's agent under section X.

approved form means the form approved by the Minister for the section in which the term is used.

area of the fishery means the area described in Schedule 1.

Australian boat means a boat the operations of which are based on a place in Australia and which is wholly owned by a natural person who is a resident of, or by a company incorporated in, Australia, being a boat that:

- (a) was built in Australia;
- (b) has been lawfully imported into Australia, otherwise than for a limited period; or
- (c) has been sold, or otherwise disposed of, in Australia after having been forfeited or distrained under a law of the Commonwealth or of a State or Territory.

boat means any kind of vessel used in navigation by water, however propelled or moved, and includes:

- (a) a barge, lighter or other floating vessel; and
- (b) an air-cushion vehicle, or other similar craft, used wholly or primarily in navigation by water.

OR boat means a boat licensed to operate in the Torres Strait Tropical Rock Lobster Fishery.

commercial fishing means fishing for commercial purposes, but does not include traditional fishing.

Committee means the Torres Strait Fisheries Management Advisory Committee, also known as TSF MAC.

community fishing means commercial fishing carried on by:

- (a) a person who is, or 2 or more persons each of whom is, both a traditional inhabitant and an Australian citizen (not being a person who is, in the course of that fishing, under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of another person who is not both an Australian citizen and a traditional inhabitant); or

- (b) a person or persons of the kind referred to in paragraph (a) and another person or other persons employed by:
- (i) the first-mentioned person or persons; or
 - (ii) the Commonwealth, Queensland, an authority of the Commonwealth or an authority of Queensland;
- to provide the first-mentioned person or persons with training or advice in relation to fishing techniques.

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

fish receiver permit means a fish receiver permit granted under section 19? of the Act.

Comment [EJC1]: not sure if this is currently possible under the Act

Fisheries Levy Regulations means the *Fisheries Levy (Torres Strait Tropical Rock Lobster Fishery) Regulations 2008(?)*.

fishery means the Torres Strait Tropical Rock Lobster Fishery.

fishing season means the period from 1 December to 30 September in a fishing year.

fishing trip means a trip commencing with the departure from the boat's last place of storage to the fishing grounds, fishing for the tropical rock lobster with commercial objectives and returning to a place where the catch is transferred to a person holding a fish receiver permit or to the relevant primary vessel.

Formatted: Font: Not Bold, Not Italic

Formatted: Font: Not Bold, Not Italic

fishing year means the period from 1 February to 31 January the following year.

Comment [MSOffice2]: If we can use just one period we will avoid a lot of future confusion – will need to think about this.

foreign boat means a boat other than an Australian boat or a Papua New Guinea boat.

Gazette means the Commonwealth Public Service Gazette.

holder, at a particular time, for a licence or scientific permit, means the person who holds the licence or permit at that time because of a grant, lease or transfer, under the Act.

hookah gear means equipment that is also known as "surface supplied breathing equipment" or "surface supplied breathing apparatus" and is equipment used for breathing underwater where the air is supplied from either a compressor or one or more compressed air cylinders on the surface of the water.

implement means a tool or utensil including lobster scissors/forceps, spears and scoop nets but not including other types of nets, explosives and poisons.

interested person, for a direction or determination, means:

- (a) a person who is able to show a continuing connection with the fishery that is likely to be affected by the direction or determination; or
- (b) an organisation or association (whether incorporated or not) whose objects or purposes include, or whose activities largely relate to, the fishery.

Examples Interested persons could include:

- (a) environmental organisations with an interest in the area of the fishery; or
- (b) persons carrying out other activities in the area of the fishery.

lease means a lease mentioned in section X.

Management Plan means the *Torres Strait Tropical Rock Lobster Management Plan 2007(?)*.

owner, for a licence at a particular time, means:

- (a) the person who is granted the licence under section X; or
- (b) if the licence has been transferred under section X — the most recent transferee of the licence under that section.

Papua New Guinea boat means:

- (a) a boat in respect of which a Papua New Guinea licence is in force; or

- (b) a boat that is being used by a traditional inhabitant who is a citizen of Papua New Guinea in the course of traditional fishing.

Protected Zone means the area the boundaries of which are described in Annex 9 to the Torres Strait Treaty, and includes:

- (a) in relation to any act or thing done for the purposes of commercial fishing—any area adjacent to the first-mentioned area and to the north of the line described in Annex 5 to the Torres Strait Treaty, being an area that is, under the laws of Papua New Guinea, declared to be an area that is outside but near the Protected Zone for the purposes of commercial fishing; and
- (b) in relation to any act or thing done for the purposes of traditional fishing—any area adjacent to the first-mentioned area and to the north of the line described in Annex 5 to the Torres Strait Treaty, being an area that is, under the laws of Papua New Guinea, declared to be an area that is in the vicinity of the Protected Zone for the purposes of traditional fishing.

PZJA means the Protected Zone Joint Authority.

quota means the weight of tropical rock lobster that may be taken in a fishing season under a fishing licence.

Register means the Register of licences kept by the PZJA under section 10 of the Act.

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

scoop net means a net not more than 1.5metres in any dimension, having a handle or shaft not longer than 3metres.

Torres Strait Treaty means 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 the Torres Strait, and related matters that was signed at Sydney on 18 December 1978, being the treaty a copy of which, apart from Annexes 2, 4, 6 and 7 to that treaty, is set out in the Schedule to the Act.

Torres Strait Tropical Rock Lobster Fishery means fishing for tropical rock lobster by hand or handheld implement in the area of the fishery.

TAC/TAE, or total allowable catch/effort, means the total weight of tropical rock lobster that may be taken under this Management Plan during the fishing season.

traditional fishing has the same meaning as in the Torres Strait Treaty, but does not include fishing by a method, or with the use of equipment or a boat, of a kind specified in a notice in force under subsection (2) of the Act.

traditional inhabitants has, subject to subsection (3) of the Act, the same meaning as in the Torres Strait Treaty.

Treaty means the Torres Strait Treaty.

trip means a voyage by boat that:

- (a) begins at a place on, or within a country's coastline; and
- (b) proceeds to and from, or through, the area of the fishery; and
- (c) ends at a place on, or within a country's coastline where an amount of a fish is taken using the boat is unloaded.

tropical rock lobster means fish of the species *Panulirus ornatus*.

Note Unless otherwise stated, a term used in this Management Plan and in the Act has the same meaning in this Management Plan as it has in the Act. The following terms are defined in section 3 of the Act:

- PZJA
- carrying
- fish
- fishing
- officer
- processing
- take.

Comment [EJC3]: this may require a delegation from the Minister

4 Geographical coordinates

The origin of geographical coordinates used in this Management Plan is the Australian Geodetic Datum 1966 (AGD66).

5 Objectives

- (1) To give regard to the rights and obligations conferred on Australia by the Torres Strait Treaty and in particular to the traditional way of life and livelihood of traditional inhabitants, including their rights in relation to traditional fishing; [s8 of Act]
- (2) To conserve the stock of tropical rock lobster;
- (3) To maximise the opportunities for traditional inhabitants of both Australia and Papua New Guinea to participate by implementing policies that include managing the fishery for tropical rock lobster as a dive fishery; and
- (4) To promote the dive fisheries for tropical rock lobster in Torres Strait and in the waters near Yule Island, Papua New Guinea.

Comment [EJC4]: These are being updated so may need to be changed

6 Measures by which objectives are to be attained

The measures by which the objectives of this Management Plan are to be achieved include the following:

- (1) granting transferable fishing licences for the fishery;
- (2) directing licence holders, as necessary, not to engage in fishing to ensure the sustainability of the resources of the fishery;
- (3) setting the total allowable catch/effort each year in the fishery, as necessary;
- (4) implementing a program of research, data collection and monitoring relevant to the assessment and management of the fishery;
- (5) establishing an effective program of catch monitoring and surveillance of the fishery to ensure compliance with the Management Plan;
- (6) developing a series of biological, economic and other data that can be used to assess the fishery;
- (7) supporting the Committee in facilitating the development of sound, cost-effective fisheries management for the fishery;
- (8) preparing an annual budget of costs associated with managing the fishery, and setting and collecting levies and fees for the fishery;
- (9) publishing information about the fishery;
- (10) using the results of research to ensure fishing is conducted in an ecologically sustainable way while preserving fishing opportunities for traditional inhabitants of Australia and Papua New Guinea;
- (11) checking accuracy and consistency of information kept in relation to the fishery.

7 Performance criteria/indicators to assess measures taken

- (1) The performance criteria against which the measures taken may be assessed are:
 - (a) that effective strategies are in place to ensure that stocks of any depleted fish resources are being rebuilt; and
 - (b) that a total allowable catch is set for tropical rock lobster for each fishing year and that the amount of lobster taken in a fishing year does not exceed the total allowable catch for the year; and
 - (c) that cost-effective and high quality research is carried out in relation to the fishery in accordance with the 5-year strategic research plan, the results of which are:
 - (i) included in the assessment process for the fishery; and
 - (ii) published in the assessment reports for the fishery; and
 - (iii) taken into consideration in determining the total allowable catch in a fishing year; and
 - (d) that data is collected and analysed in a timely manner to enable:

Comment [EJC5]: not sure if this should be included

- (i) evaluation of the effectiveness of the strategies to maintain or rebuild the resources of the fishery at, or to, an acceptable level; and
- (ii) modification of those strategies; and
- (iii) evaluation of the ecosystem impacts of the fishery; and
- (e) that the budgetary objectives of the fishery are achieved; and
- (f) that adequate and reliable data on catch and effort, appropriate to the scale of the fishery, are collected from all sectors to ensure sustainable management of the tropical rock lobster resource; and
- (g) stock assessments of the fishery should take particular regard of all removals and other relevant impacts on shared rock lobster stocks; and
- (2) The PZJA must develop and periodically review a strategy to implement any recommendations of the compliance risk assessment of the fishery.
- (3) The PZJA and TSF MAC must, at least once every 5 years, assess the effectiveness of the Management Plan including the measures taken to achieve the objectives of the Management Plan by reference to the performance criteria mentioned in subsection (1).
- (4) Each year, TSF MAC must assess the extent to which the performance criteria mentioned in subsection (1) have been met in that year.
- (5) The PZJA must include in its annual report for a financial year a statement of the extent to which the performance criteria mentioned in subsection (1) were met in the year.
- (6) The PZJA must develop a clear process and timeframe for determining the reason for a performance criteria breach and implement appropriate management measures within specified timeframes.

Comment [MSOffice6]: Will need to consider in light of the new objectives for the fishery.

8 Persons to whom the Management Plan applies

This plan applies to a person or persons engaged in commercial or traditional fishing for tropical rock lobster or scientific research in the area of the fishery.

- (1) PNG fishers
- (2) Commercial (indigenous and non-indigenous) fishers
- (3) Traditional fishers

9 Duration

In effect until it is revoked.

10 Review of Management Plan

Every 5 years wherever possible.

Comment [EJC7]: Will this be covered by 7(3)?

Part 2 Fishing licences

Division 1 Right to fish in the fishery

11 Who may participate in the fishery

- (1) A person may take tropical rock lobster for commercial purposes in the area of the fishery only if:
 - (a) the person holds, or is acting on behalf of a person who holds, a licence that allows the person to take tropical rock lobster granted under section 19(1), or 19(2) of the Act; or
 - (b) the person holds, or is acting on behalf of a person who holds, a licence that allows the person to take tropical rock lobster granted by PNG and endorsed under section 20(1) pursuant to Article 26 of the Treaty.
- (2) A person may carry and process and carry for commercial purposes tropical rock lobster in the area of the fishery only if:

- (a) the person holds, or is acting on behalf of a person who holds, a licence that allows the person to take tropical rock lobster granted under section 19(3) of the Act; or
- (b) the person holds, or is acting on behalf of a person who holds, a licence that allows the person to take tropical rock lobster granted by PNG and endorsed under section 20(1) pursuant to Article 26 of the Treaty.
- (3) The person is a traditional inhabitant of Australia or PNG and the quantity of lobsters taken is no more than:
 - (a) three (3) if there is one person involved in the fishing; or
 - (b) six (6) if there are two or more persons who are traditional inhabitants; and
 - (c) the lobsters are taken for traditional purposes.

Comment [MSOffice8]: WE should consider rationalising the present A, B and C class licences.

Comment [MSOffice9]: Suggest the plan covers both classes of fishing that the PZJA is responsible for.

Comment [MSOffice10]: Need to modify to allow for community arrangements – won't know how for a while.

Comment [MSOffice11]: Average trip for the non-community fishers is about 500-600kg tails wt and there may be about 8 trips per year. 2 % is more appropriate as 5% could be 30-40 percent of the catch of a trip.

Comment [MSOffice12]: Many dive standards now insist on a source of air that will automatically supply a diver in the event of a failure of the primary source – "bail-out bottles" should also be allowed. We might consider if the prohibition on SCUBA is even relevant any more.

Comment [EJC13]: Need to consult with traditional inhabitants on this.

12 Quantity that may be taken

In a fishing year, a person who holds, or is acting on behalf of another person who holds, a licence to fish in the fishery must not take from the fishery an amount of tropical rock lobster greater than the quota allocated to the licence for the fishing season.

13 Obligation relating to overcatch

This section applies if a holder of a fishing licence has taken more quota than was allocated to the licence for the fishing season.

An overcatch of 2% (additional to catch allocated) may be retained on the last trip of the season only but will be deducted from the following season's quota at 1.5 times the amount caught.

14 Fishing methods

- (1) Tropical rock lobster may be caught by hand or handheld implement only. [Fisheries Notice 58]
- (2) Hookah gear, but no other kinds of equipment used for breathing underwater, may be used to take tropical rock lobster in the area of the fishery between 1 February and 30 September in a fishing year. [Fisheries Notice 58] For diver safety it is permitted that a compressed air cylinder of a kind typically used for SCUBA be integrated into the control panel for a hookah in such a way that it can act as a back-up supply of air for the diver in the event that the primary supply of air from a compressor is interrupted for any reason. Divers are also permitted to carry on them for emergency purposes a compressed air cylinder with a volume of not more than X cubic centimetres.
- (3) Pursuant to paragraph 16(1)(c) of the Act, the taking or carrying of tropical rock lobster while using, or in the possession of, hookah gear, is prohibited in the area of the Tropical Rock Lobster Fishery during the period commencing 1 October each year and ending 31 January the following year. [Fisheries Notice 73 – overrides 58 & 62]
- (4) Mechanical equipment that provides underwater propulsion may not be used at any time to take tropical rock lobster. [Fisheries Notice 58]

15 Traditional fishing

Need a section to allow for protection for traditional fishing, which gives traditional fishing primacy over commercial fishing e.g. define an area such as "home reefs" for traditional fishing only.

16 Scientific research

- (1) Permits may be granted for the purpose of scientific research in the area of the fishery.
- (2) A permit granted under subsection (1) is subject to such conditions as are specified in the permit.

- (3) A person may use a boat in the area of the fishery for scientific research about the fishery only if the person is, or is acting on behalf of, the holder of a scientific permit that authorises the use of the boat in the area of the fishery for that purpose.
- (4) The PZJA may, by notice in writing given to the holder of a scientific permit in force, revoke the permit; or vary or revoke the conditions to which the permit is subject or specify further conditions to which the permit is to be subject.

Note See section 12 of the Act about the issue of permits for scientific purposes.

Comment [MSOffice14]: It would be a good idea if we amended the Act to not refer to the use of a boat. While a boat is usually required for research in this fishery it may not always be and boats are not always needed for research in other fisheries. Further some fishing in other fisheries may not require the use of a boat

Comment [EJC15]: This may require a delegation from the Minister

Comment [MSOffice16]: 5 year licences are not advised – particularly for TIB licences this could lead to large numbers of inactive licences

Division 2 Grant of licences

Need to add licensing policy here, including a revision/simplification of the tender rules.

17 Grant of licences

- (1) Licences are granted for a period of one year.
- (2) Types of licences:
 - (a) Fishing Boat Licences
 - (i) Traditional Inhabitant Boat Licence (TIB) - granted to and transferable between traditional inhabitants only;
 - (ii) Open transferable Fishing Boat Licences (TVH) - granted to and generally transferable between traditional and non-traditional inhabitants. A TVH Fishing Boat Licence is required for a primary boat and its tender(s). Each Fishing Boat Licence issued to a tender boat is linked to the primary boat. These are dealt with as licence packages.
 - (b) Processor Carrier Boat Licence – there are three classes of Processor Carrier Boat Licences in the fishery:
 - (i) Class A: Allows the carrying and processing of product taken only by the tenders associated with that boat. All primary boats operating under a Fishing Boat Licence will also have a Class A Processor Carrier Boat Licence. Class A Licences are not issued to traditional inhabitants operating under a Traditional Inhabitants Boat Licence;
 - (ii) Class B: Allows the carrying of product only. Product can be received from other boats but cannot be processed. Class B Licences are granted to a licensed fishing vessel or trading vessel;
 - (iii) Class C: Allows the carrying and processing of product from other boats. The number of Class C Licences granted to non-traditional inhabitants has been capped at two. Class C licences may still be granted to traditional inhabitants.
 - (c) Master Fisherman's Licence. In addition to a Fishing Boat Licence or a Processor Carrier Boat Licence, to fish commercially non-traditional inhabitants must hold a Master Fisherman's Licence. The number of Master Fisherman's Licences issued to non-traditional fishers is capped. There is presently no cap on the number of Master Fisherman's Licences issued to traditional inhabitant fishers. Traditional inhabitant fishers are not required to hold a Master Fisherman's Licence to operate under a Traditional Inhabitants Boat Licence but must hold a Master Fisherman's Licence to operate under a Fishing Boat Licence.
- (3) The issue of additional licences is restricted to boats wholly owned and operated by traditional inhabitants.

Comment [MSOffice17]: We should consider and discuss the relevance of these licences under new arrangements. Since there are no competencies attached to the grant these are merely a method of controlling participation by the one sector. Does the allocation process eliminate this need? Should there be competencies?

Division 3 Obligations of licence holders

18 Nomination of a boat by a holder of a fishing licence

- (1) The holder of a fishing licence may apply to the PZJA, in the approved form, for 1 or more Australian boats to be entered in the Register as nominated boats for the licence.
- (2) If the PZJA receives an application under subsection (1), the PZJA must:

- (a) enter in the Register, in relation to each nominated boat, the details required by the *Fisheries Management (Torres Strait Tropical Rock Lobster Fishery) Regulations 2008* to be entered in the Register; and
- (b) give to the holder an extract of the Register that:
 - (i) states the conditions to which the licence is subject; and
 - (ii) states the name and identification code of each nominated boat for the licence; and
 - (iii) is signed for the PZJA by a person having authority to sign it.
- (3) However, the PZJA must not register a boat as a nominated boat for a licence if the boat is a nominated boat for another person who holds a licence.
- (4) Vessels must be no longer than 20 metres [Fisheries Notice 47].

19 Other obligations of licence holders

- (1) Subject to section X, the holder of a fishing licence may engage in fishing for tropical rock lobster in the fishery only during the fishing season.
- (2) It is a condition of a fishing licence that the holder must:
 - (a) comply with:
 - (i) this Management Plan; and
 - (ii) any Regulations made for the purposes of this Management Plan; and
 - (iii) any applicable provisions of the Act; and
 - (iv) any direction made under section X; and
 - (v) any condition imposed on the licence; and
 - (b) not take (retain?) lobsters smaller than the minimum tail length mentioned in Schedule 2, measured as shown in Schedule 3; and
 - (c) unless a statement of a kind mentioned in X applies to the nominated boat for the licence – carry an observer and the observer's safety and monitoring equipment if the PZJA asks the holder to do so; and
 - (d) if the PZJA asks the holder to give the PZJA reasonable access to biological, economic or technical information, or biological samples that are available to the holder – give the PZJA reasonable access to the information or samples;
 - (e) if the PZJA asks the holder to take on board, accommodate and cooperate with a scientific observer – provide that observer with a safe and cooperative living and working environment; and
 - (f) carry on board the nominated boat a copy of the extract from the Register that states the name of the boat.
- (3) Licence holders operating vessels greater than 7 metres in length must ensure that relevant information is accurately and fully recorded in the Tropical Rock Lobster Logbook – TRL04.
- (4) The holder of a fishing licence must, unless the PZJA determines otherwise, have fitted to the boat a vessel monitoring system (VMS) that:
 - (a) is installed in accordance with guidelines published by the PZJA; and
 - (b) has an automatic location communicator, of a kind approved by the PZJA, as part of the system; and
 - (c) has a personal computer capable of receiving e-mail as part of the system; and
 - (d) is operated continuously unless otherwise agreed by the PZJA; and
 - (e) is operated in accordance with the manufacturer's specifications and operating instructions.
- (5) Unless the PZJA approves otherwise, the holder must ensure that the VMS is operating in accordance with the manufacturer's instructions at all times.
- (6) It is a condition of a fishing licence that the holder must not sell (or otherwise dispose of, other than solely for processing on board and transportation directly to a

relevant place) fish that the holder takes and retains for trade or business in Australia except to the holder of a fish receiver permit for the fishery.

- (7) For paragraph (2)(b), **automatic location communicator** means a device on a boat that transmits information about the location of the boat and, in conjunction with one or more other devices, transmits additional information about fishing activities being undertaken by the boat.

Comment [EJC18]: or Torres Strait Seafood Buyers and Processors Docket Book TDB01

Comment [MSOffice19]: tenders need to be able to transfer product to the primary

Comment [MSOffice20]: Added the bit about fishing trip – This could effectively separate traditional and commercial fishing – this will require extensive consultation.

20 Obligations relating to interactions with certain species and communities

- (1) The holder of a fishing licence must take all reasonable steps to ensure that the impact of fishing operations on the marine environment is kept to a minimum during each fishing trip.
- (2) In particular, the holder must take all reasonable steps to avoid interactions with the following:
- (a) cetaceans;
 - (b) marine species listed for section 248 of the EPBC Act;
 - (c) migratory species listed for section 209 of the EPBC Act;
 - (d) threatened ecological communities listed for section 181 of the EPBC Act;
 - (e) threatened species listed for section 178 of the EPBC Act.
- (3) The holder must on each fishing trip, if the activities of the boat being used for fishing result in an interaction with a species or community mentioned in subsection (2):
- (a) record details of the interaction in a logbook kept for that purpose; 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 any data, or make any observations, requested 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, discharge its carcass from the boat in a way that does not attract birds or mammals to the boat; 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 regulations made for the purposes of this section.

Comment [EJC21]: Not sure if this is necessary

21 Obligations of PNG licence holders

Do we need a whole similar section here where we specify related issues for PNG licence holders – I think so. We need to have provisions for PNG vessels to report catches before departing and to standby at defined places to be checked to verify their catches if required (licence conditions).

Formatted: No bullets or numbering

Division 4 Places where product can be landed

22 Landing places

Define places where lobsters can be landed. We have talked about and industry generally agrees with having to land their product on Horn Island or TI. Islanders have not been similarly consulted but I think it would be a good idea to propose and get agreement that catch should not be able to be landed just anywhere. There are only so many legitimate places. I think we need to list and define them. Related to this there is also going to be the need to control (through registry) live holding cages which are in widespread use around the islands. Someone will have to be responsible for the product stored in these.

Division 5 Directions not to engage in fishing

23 Directions by the Minister

- (1) The Minister may direct that commercial and/or community fishing is not to be engaged in in the fishery, or in a part of the fishery, during a stated period.
- (2) In giving directions under subsection (1), the PZJA must make sure any requirements of the *Fisheries Management (Torres Strait Tropical Rock Lobster Fishery) Regulations 2008* for the purposes of this subsection are met.
- (3) Directions under this section will be made by notice published in the *Gazette*.
- (4) In accordance with Regulation 3 of the *Torres Strait Fisheries Regulations 1985*, the contents of notices under this section will be published in an appropriate newspaper (determined by the Minister or PZJA) and/or broadcast in the State of Queensland on a frequency commonly used by fishing boats in the Torres Strait.

Comment [EJC22]: or "taking, processing or carrying of tropical rock lobster"

24 Exemptions for traditional fishing

Traditional fishing is exempt from regulation under section 16(1A)(d) of the Act. Should this be outlined as a general heading, or as exemptions under each of the relevant sections of the Plan? Exemptions include directions (seasonal & area closures), determinations (TAE/TAC), meating and size limits.

- (1) [Fisheries Notice 58] Pursuant to paragraph 16(1A)(d) of the Act, a person is exempt from directions issued under section X if that person is engaged in the course of traditional fishing and the person takes or carries tropical rock lobster:
 - (a) without the use of a boat and the number of tropical rock lobsters in that person's possession does not exceed three; or
 - (b) with the use of a boat, or by diving from a boat, and no other person is in the boat and the number of tropical rock lobsters in the boat does not exceed three; or
 - (c) with the use of a boat, or by diving from a boat, and there is at least one other person in the boat and the number of tropical rock lobsters in the boat does not exceed six.

Comment [MSOffice23]: I think that this part should reflect the part above about who may participate. Most importantly I think that this is a good opportunity to review all the exemptions. Islanders should be given the opportunity to decide if they still think that they should be allowed to take small lobsters, lobster meat etc. So we need to consult widely and then see where we go with it.

Division 6 Transfer and lease of licences

25 Duration, transfer, renewal and variation of licences

- (1) An application for renewal or transfer must be on the approved form.
- (2) No transfers will be processed until the fee is paid.
- (3) Variations to licences will not be made until the holder of the licence pays the fee (where applicable) and/or any outstanding levy.

26 Lease of licences

Insert trading rules here.

27 Suspension and cancellation

- (1) The PZJA may suspend a licence (by notice in writing to the licence holder) if the holder or a person acting on behalf of the holder has:
 - (a) contravened or failed to comply with licence conditions;
 - (b) refused or failed to provide information required by a notice under s14;
 - (c) provided false or misleading information in accordance with a notice under s14;
 - (d) acted in contravention of a prohibition notice (s14); or
 - (e) in an application relating to the licence, the holder has made a false statement or furnished false information.
- (2) The PZJA may cancel a licence (by notice in writing to the licence holder) if:
 - (a) for a master fisherman's licence: the holder is convicted of an offence (under the Act/regs or Comm/PNG/State/Territory fishing law); or

- (b) for a boat licence:
 - (i) the holder is convicted of an offence as above; or
 - (ii) another person is convicted of an offence as above in relation to the use of the boat during any period the licence was held by the holder.

28 Fees

- (1) Licence fees are prescribed in the *Torres Strait Fisheries Regulations 1985*.
- (2) Levies will need to be prescribed in the *Fisheries Levy (Torres Strait Tropical Rock Lobster Fishery) Regulations*.

Part 3 Total allowable catch

29 Reference points

- (1) As soon as practicable the PZJA must determine biological reference points for tropical rock lobster that are appropriate for maintaining ecologically viable stocks of the species and an ecologically sustainable fishery.
- (2) Each year, the PZJA must review the reference points set under subsection (1) to ensure that they remain appropriate for maintaining ecologically viable stocks of tropical rock lobster and an ecologically sustainable fishery.

30 Determination of total allowable catch

(total fishing capacity)

- (1) Before the beginning of the fishing season the Minister? will determine the total allowable catch for the fishing year.
- (2) Before deciding the total allowable catch for the fishing year, the Minister?:
 - (a) may consult the Committee and consider the Committee's views; and
 - (b) may consider the views of other interested persons.
- (3) The total allowable catch will be expressed in terms of kilograms live weight of lobster.
- (4) Where the catch is landed as lobster tails the formula to convert the weight of tails so landed to live weight: Live weight (kg) = 2.32 X tail weight (kg).

Comment [EJC24]: This power can be delegated to e.g. the Chairperson of PZJA

31 Amendment of total allowable catch

Allows the TAC to be amended after the start of the fishing season.

32 Apportionment

Division of total fishing capacity into *units of fishing capacity*.

33 Allocation of units

- (1) Commercial sector – allocation will be via a formula calculated by the independent Allocation Advisory Panel.
- (2) Community sector – allocation to be resolved.
- (3) PNG sector – allocation to be resolved.

34 Consultation

Consultation is not mandatory under the Act... however in accordance with section 13 of the Act, the Minister may seek the views of the traditional inhabitants on the Joint Advisory Council established under Article 19 of the Torres Strait Treaty on any matter relating to the administration of this Act that may affect the interests of traditional inhabitants. Should this be made more definite?

Part 4 Penalties

[Note – the levels of penalties need to be updated/revised]

35 Penalties

[See s14(12)-(14A)]

Comment [MSOffice25]: Do we make reference to the criminal code in the plan? I would think that is important given the nature of quota infringements

With regard to logbooks, see Regulation 12-13 of the *Torres Strait Fisheries Regulations 1985*. (Note – can't find a definition of penalty unit anywhere)

Part 5 Miscellaneous

36 Registers

To allow registers to be kept by the PZJA which show particulars of licences issued under section 10 of the Act.

37 Delegation

[Not sure if this section is required – can any powers under the Plan be delegated to an officer of the PZJA?]

Section 9(6) & (7) of the Act allow the Minister to delegate his powers under section 12, 19 and 26 to either the Chairperson of the PZJA or a person employed by the PZJA.

38 Agents

[not sure if there is a empowering provision for this under the Act]

- (1) If the holder of a fishing licence appoints a person to be the holder's agent for a matter to which this Management Plan applies, the holder must give the PZJA a notice that states:
 - (a) the name of the agent; and
 - (b) the powers that may be exercised by the agent.
- (2) A notice must be accompanied by the instrument, or a certified copy of the instrument, by which the holder appointed the agent.
- (3) For this Management Plan, the appointment of an agent by the holder of a fishing licence is of no effect unless the PZJA has been notified of the appointment under subsection (1).
- (4) In making a decision on an application under this Management Plan:
 - (a) the PZJA may assume that a notice given under this section is properly given; and
 - (b) the PZJA need not verify, by other means, the authority of the agent to make the application.

39 Notices

- (1) In this section:

address means for the holder of a fishing licence—the holder's address stated in the Register;

e-mail address, of a person, means the e-mail address (if any) given to the PZJA by the person.

fax number means for the holder of a fishing licence—the holder's fax number stated in the Register;

notice means a notice that is required, or allowed, by this Management Plan to be given in writing.

working day, in a place, means a day that is not:

- (a) a Saturday or Sunday; or
 - (b) a public holiday in the place.
- (2) A notice to a person who is the holder of a fishing licence is taken to be given to the person if it is:
 - (a) delivered to the person's residential or office address; or
 - (b) posted to the person's postal address; or
 - (c) sent by fax to the person's fax number; or
 - (d) sent by e-mail to the person's e-mail address.

- (3) A notice given, under this section, to a person who is the holder of a fishing licence is taken to have been given to the person:
- (a) if the notice is delivered to the person's residential or office address—on the day when it is delivered; and
 - (b) if the notice is sent by fax to the person's fax number or by e-mail to the person's e-mail address:
 - (i) on a working day between 9 am and 4 pm—1 hour after the notice is sent; and
 - (ii) otherwise—at 9 am on the next working day after the day when the notice is sent.
- (4) A notice to the PZJA must be addressed to the Manager, Licensing and Quota Management, Australian Fisheries Management Authority, and:
- (a) delivered to the reception desk at:
 - John Curtin House
 - 22 Brisbane Avenue
 - BARTON ACT; or
 - (b) posted to:
 - PO Box 7051
 - Canberra Business Centre
 - ACT 2610; or
 - (c) sent by fax (from within Australia) to:
 - (02) 6272 4614; or
 - (d) sent by fax (from outside Australia) to:
 - +612 6272 4614; or
 - (e) sent by e-mail to:
 - licensing@afma.gov.au; or
 - (f) delivered, posted or sent by fax or e-mail to another office address, postal address, fax number or e-mail address notified by the PZJA by notice published in a newspaper circulating in the State or Territory in which the address or fax receiver is located.
- (5) A notice given to the PZJA under this section is taken to have been given to the PZJA:
- (a) if the notice is delivered to the address mentioned in paragraph (4) (a), or posted to the address mentioned in paragraph (4) (b)—on the day when it is delivered; and
 - (b) if the notice is sent by fax to the fax number mentioned in paragraph (4) (c) or (d) or by e-mail to the e-mail address mentioned in paragraph (4) (e):
 - (i) on a working day between 9 am and 4 pm—1 hour after the notice is sent; and
 - (ii) otherwise—at 9 am on the next working day after the day when the notice is sent.

Note Under subsection 160 (1) of the *Evidence Act 1995*, it is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) that a postal article sent by pre-paid post addressed to a person at a specified address in Australia or in an external Territory was received at that address on the fourth working day after it was posted.

Note – no specifications on when regulatory notices must be sent.

[s59 – notice considered to be given if delivered or sent to last known address of residence or business, or registered office of body corporate; 4 working days after posting under subsection 160(1) of the *Evidence Act 1995*]

Part 6 Transitional

40 Transitional

- (1) This section ceases to have effect on the day specified in a notice published in the Gazette under subsection (2).
- (2) When the first licences granted under this Management Plan come into effect, the PZJA must publish a notice in the Gazette stating that this section ceases to have effect on a day specified in the notice.
- (3) The day specified in a notice under subsection (2) must not be earlier than the day on which the notice is published.
- (4) Despite section X, a person may engage in fishing in the fishery area if the person holds a fishing permit that is in force.
- (5) This Management Plan does not affect a fishing permit issued outside the Plan, or a condition to which the permit is subject.
- (6) This Management Plan does not prevent the granting or transferring of a fishing permit.

Part 7 Other prohibitions

[I'm not sure where these belong – ideally not in conditions on fishing licences]

The practice of 'meating' is prohibited at all times in the fishery. [Fisheries Notice 62]

Pursuant to paragraph 16(1)(a) of the Act, the processing or carrying of tropical rock lobster meat that has been removed from any part of a tropical rock lobster is prohibited on any boat in the area of the fishery. [Fisheries Notice 73 – overrides 58 & 62]

Schedule 1 Area of the fishery

[Currently described in Schedule 2 of the *Torres Strait Fisheries Regulations 1985*]

The area of the tropical rock lobster fishery is the area consisting of:

- (1) the area of waters in the Protected Zone to the south of the Fisheries Jurisdiction Line; and
- (2) 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:
 - (a) north along the meridian of longitude 141° 20' 00" east to its intersection with the parallel of latitude 10° 28' 00" south;
 - (b) east along that parallel to its intersection with the meridian of longitude 144° 00' 00" east;
 - (c) south along that meridian to its intersection with the parallel of latitude 10° 41' 17" south;
 - (d) west along that parallel to its intersection with the meridian of longitude 142° 31' 49" east;
 - (e) south along that meridian to its northernmost intersection with the coastline of Cape York Peninsula at low water;
 - (f) 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;
 - (g) west along that parallel of the point where the line began; and
- (3) the territorial sea of Australia north of the Fisheries Jurisdiction Line.

Schedule 2 Species

- (1) The target species is the ornate tropical rock lobster, *Panulirus ornatus*. Though several other species are occasionally taken the TAC and this plan applies only to *P. ornatus*.

Formatted: Font: Italic

- (2) The minimum size limit for taking, carrying and processing tropical rock lobster in the area of the fishery is 90mm carapace length or 115mm tail length. [Fisheries Notice 58]

Comment [EJC26]: Covered under definition of tropical rock lobster

Schedule 3 Method of measurement

[Fisheries Notice 73 – overrides 58 & 62]

- (1) Carapace length is measured along the dorsal surface from the anterior mid-dorsal margin to the posterior mid-dorsal margin of the carapace.
- (2) Tail length is to be measured in a straight line along the dorsal surface from the anterior margin of the first abdominal somite to the posterior margin of the sixth abdominal somite when the tail is laid flat on a horizontal surface, with firm downward pressure placed on the third abdominal somite.

Comment [EJC27]: This wording is still being finalised so may need to be changed

To include a diagram illustrating how the minimum size is to be measured.

Conditions on licences [under s22]

Reporting

Logbooks

Provision under Regulation 10 of *Torres Strait Fisheries Regulations 1985*.

Must complete a logbook. Logbook = the Tropical Rock Lobster Logbook – TRL04.

Position

To report location of boat & entry/exit of jurisdiction – pre-departure reporting, post-fishing reporting, ICVMS? [provision in s14(2A)]

Sale and disposal of fish

To report quantities of fish received from another person [provision in s14(3)]; providing for furnishing of returns in relation to taking of fish and the sale or disposal of those fish – both in areas of Australian jurisdiction and with the use of Australian boats in areas of PNG jurisdiction [s60(1)(n)(i) & s60(1)(n)(iii)].

Transshipping

Prescribing rules to be observed & requiring returns for fish taken both in areas of Australian jurisdiction and with the use of Australian boats in areas of PNG jurisdiction.

Processing

To require returns for processing and sale/disposal of fish taken both in areas of Australian jurisdiction and with the use of Australian boats in areas of PNG jurisdiction.

Single purpose trips

Should traditional inhabitants undertaking commercial fishing trips be allowed to retain traditional catch as well? May need a prohibition to prevent take of turtles and dugongs while traditional inhabitants are fishing for commercial purposes.

Single jurisdiction fishing

The movement of dual-licensed (TS and Qld) boats in and out of the fishery should be controlled – need a requirement for them to report when entering or leaving the area of the fishery, and no catch on board when entering the area of the fishery.

Advice from AFMA Licensing: If it is something that you want to have fishery wide and it will not change in the future it should be in the Management Plan. If it is something that will change in the future or if it exemptions apply for specific operators it is best to be in the permit/SFR conditions for the fishery. This is because it is harder to change a section in a Management Plan compared to amending the conditions on permits/SFRs.

TORRES STRAIT TROPICAL ROCK LOBSTER WORKING GROUP	Meeting Date 28 February - 2 March 2006
Quota Management System for 2007 (AFMA MAT Member)	Agenda Item No. 6 FOR DISCUSSION

Agenda Item 6.1 Review of key elements of Quota Management System report

PURPOSE

To review the key elements of previous reports on options for a Quota Management System (QMS) for rock lobster.

BACKGROUND

- At PZJA 18 the PZJA agreed to implement a full quota management system in the Tropical Rock Lobster (TRL) fishery for 2007 onwards.
- Reports were commissioned by the PZJA to outline the options for the implementation of a QMS for the TRL fishery to manage catch in the fishery. These were provided by Molloy and de Fries (2005) and Econfish Services (2005).

DISCUSSION

The major recommendations from each of the consultants' reports are reviewed below.

Molloy and de Fries (2005)

The report advocates that the biological characteristics and method of harvest make the TRL fishery highly suitable for quota management, and that a system of transferable quotas is the best way to give effect to an allocation between the TIB and TVH sectors. The consultants recommended that overall responsibility for quota monitoring and compliance should remain a function of the PZJA delegate agencies. There should be separate access rights for the TIB and TVH sectors, expressed in kilograms whole weight.

Traditional Inhabitant Sector (TIB)

- Any decisions regarding internal allocation made by Torres Strait islanders (preferably a representative islander group constituted under the PJZA). The existing Community Fisheries Group may be an appropriate body to advise on issues related to quota management, including allocations.
- TIB quota should be internally allocated at the community level, and internal shares should not be fixed. Allocation of the overall TIB share amongst the communities should be reviewed annually.
- There should be no permanent transfers out of the TIB sector to the TVH sector.
- The QMS should provide for leasing between communities within the TIB sector.
- A QMS for the TIB sector could be administered either by tags or by a modified docket/invoice system.

Commercial sector (TVH)

- Individual transferable quotas (ITQs) should be implemented for the TVH sector.

- Consideration should be given to investigating a mechanism for permanently transferring TVH quota to the TIB sector.
- Latent effort could be addressed in the TVH sector with mix of blunt input controls – spatial and temporal closures and implementation of transferable effort units (~ diver days).
- Current input controls (such as hookah bans, boat replacement policy, limit on tenders) should be reviewed.

PNG sector

- PNG catch must be reliably decremented against the PNG quota in order to manage this sector, and should be up to PNG to determine how to administer this on a per-vessel basis.
- PNG should be issued with licences to fish their share of the quota. These foreign licences should include the following conditions to ensure the PNG take is reliably monitored:
 - single jurisdiction entry (presumption that holds are empty);
 - daily position, effort and catch reporting to PZJA;
 - all PNG boats should complete CDRs and send it to AFMA;
 - notification of intent to start and end fishing campaigns in the treaty area. The post-fishing notification would need to allow sufficient warning to arrange an at-sea inspection if required.
- To require pre- and post-fishing inspections in gazetted ports for PNG operators is not consistent with the Torres Strait Treaty. Instead, random inspections of PNG vessels could be undertaken during fishing and after they have provided notification that they intend to stop fishing. Cross-endorsed licences would need to include a requirement for vessels to stand by at agreed anchorages to facilitate an at-sea post-fishing inspection.

Econfish Services (2005)

- All fishing sectors should be managed through the co-management model of the PZJA.
- TIB quota should be managed under the PZJA via a Torres Strait Fisheries Commission (TSFC) (or equivalent) established under section 12 of the TSRA powers of the *Aboriginal and Torres Strait Islander Act 2005*.
- The TSFC functions are to negotiate quota allocations amongst island communities and manage the requirements of PZJA as a co-management partner, and to manage a Fisheries Development Program under the TSRA.
- A company should be set up under the TSFC to foster commercial partnerships and promote island community fishing activities or enterprises.
- TVH sector and PNG Treaty boats should be managed under ITQs with QMS supported by research, monitoring and compliance strategies.
- Quota should be transferable within the TVH sector to allow for self-adjustment and efficiency gains. Transfer from the TVH sector to the TIB sector allowed, but not from the TIB sector to the TVH sector. TIB shares may be leased back to the TVH sector under certain conditions as a form of income stream that can be used to promote economic development.
- An independent TAC Committee should be established to review all relevant information and provide accurate, unbiased and timely advice to the PZJA.
- An annual pre-season survey should be undertaken to improve the accuracy of recruitment estimates.

- A Catch and Disposal Record (CDR) should be introduced for all sectors of the fishery (TIB, TVH and PNG) to monitor the catch of lobster in Torres Strait.
- Receivers of lobster (Torres Strait and Queensland) should be licensed with a Fish Receiver Permit under the Torres Strait Fisheries Act 1984;
- A “Sales and Transfer” Form should be introduced to provide a mechanism of monitoring catch and ensuring it is decremented against quota.
- A prior and post landing reporting system based on an Integrated Voice Response (IVR) mechanism should be introduced to monitor product transfers by the TVH sector and to provide information for random inspections.
- All lobster transferred from TVH quota holders or fish receivers should be in sealed and tagged bins to promote the integrity of the QMS.
- Substantial amendments are required to the *Torres Strait Fisheries Act 1984* to allow for quota administration, TAC, fish receivers, and ability to impose documentation and inspection powers for Queensland compliance officers.

RECOMMENDATION

That the Working Group considers the key elements of the consultants’ reports in its discussion of a management plan and QMS operational plan for the TRL fishery, with a view to making a recommendation to the PZJA on a preferred QMS.

Agenda Item 6.2 Quota management system: issues to promote discussion

PURPOSE

To present a “first draft” proposal for quota management in the TRL fishery for consideration and development by the TRL Working Group. The paper also identifies some aspects of the quota system that could be trialled in 2006.

BACKGROUND

- The PZJA decided that the TRL fishery should move to a quota management system after its 18th meeting having received advice from consultants it was feasible to use this form of management in the fishery.
- The PZJA also indicated that, during 2006, AFMA should trial a number of the potential quota management tools in order to better evaluate them before a fully fledged quota management system is introduced during the 2007 season.
- The first step towards quota management has already commenced with the execution of the first “pre-season” lobster visual transect survey carried out in November and December 2005. This survey will be followed up in March with the first updated stock assessment using data up to and including the 2005 season. The assessment will be considered by the Resource Assessment Group during its inaugural meeting on 28 and 29 March.
- It is intended that a nominal TAC will be recommended to the PZJA meeting in April and catches in 2006 will be benchmarked against that TAC.

DISCUSSION

Elements of a QMS

A quota management system (QMS) has a number of interrelated elements, which allow fisheries managers to effectively control catch at the target level. The elements are listed below with a short explanation of each.

1. TAC: A quota management system aims to keep the catch at a level known as the Total Allowable Catch (TAC) or Total Allowable Commercial Catch (TACC). It is proposed that a TACC be set for the fishery. This excludes the relatively small catch of lobsters taken by recreational and traditional fishers. The catch of these sectors will not be monitored in the same manner as the commercial catch.
2. Rules (allocations) that clearly specify the shares of the TAC that each licence or sector is entitled to. The allocation process is examined in detail in a separate paper.
3. Monitoring should be able to detect any catch that has not gone through the legal channels from fisher to processor or from processor to “market”. This could be done by marking animals caught commercially or by completion of forms that are designed to track the product through the supply chain (often called the paper trail).
4. Compliance with the quota system is central to the success of the QMS.
5. Review: All good management systems have an explicit review process by which their performance can be evaluated and the system refined if need be.

QMS and the sectoral allocation decisions

It is important that Working Group members are clear that the QMS is an operational system and. It expresses the resource allocation decision in terms of the shares of the TAC each sector is allocated but it does not influence in one way or another the decisions made on resource allocation. Rules about how quota can be traded between licence holders and/or communities, and between sectors (which is part of the QMS), may further express the decisions about resource allocation. However, allocation is determined by a separate and independent process – do not confuse this process with the QMS.

Proposed system

TACC

The TACC will be recommended to the PZJA by the Resource Assessment Group, based purely on scientific evidence of the remaining biomass in the fishery, and will aim to give effect to the management objectives that have been agreed for the fishery (this Working Group). The Working Group and the TSFMAC will generally have an opportunity to comment on the TACC recommendation from the standpoint of making the PZJA aware of issues such as life and livelihood, general economics, market conditions, and the operational aspects of the fishery etc.

Monitoring

There are essentially two mechanisms proposed for monitoring the quota – tags and “paper trails”; they are fundamentally different from one another and both have advantages and disadvantages.

1. Tags

One proposal is to tag product. Tags are used in the NSW and Tasmanian commercial lobster fisheries (in Tasmania only lobsters bound for the domestic market are tagged). Both these fisheries generally produce only live lobsters. Tags are also used in various recreational fisheries around the world and, in some places where hunting for animals such as deer is allowed, to control harvests. “Tags” are also used successfully in many

retail stores to control stock and prevent theft. Thus the proposal to use tags in the Torres Strait TRL fishery is not without precedent.

One advantage of tagging is that commercially-caught product is readily identifiable; this assists compliance with the quota system. The proposal would be to allocate sufficient tags for the weight of quota allocated to each sector and/or licence, or community (it is not clear at what level allocation will be made in the Community Fishing sector). Once allocated, all that is required is a mechanism to ensure that all product being exported from the Straits is tagged.

Tags have been sourced that are easily applied to the cray knuckles and these tags appear to be a workable solution for the lobsters landed live. However, no tag has been identified that could be applied successfully to cray tails and knuckles. Despite some advantages this system does not seem to be a practical “monitoring” solution until a universal tag is found that:

- cannot be easily removed from the lobster and re-used;
- does not interfere with product packaging;
- is low cost (a 250 t TACC of 1kg lobsters is 250,000 lobsters so even 30 cent tags end up costing \$75,000 plus costs of distribution); and
- does not harm the product in any way and is not detrimental to its marketability.

Working Group members are encouraged to think laterally about a workable tagging method for Torres Strait.

2. Paper trail

In late 2004 and early 2005 AFMA introduced the “Docket Book System” as a voluntary way of recording the catch of lobsters and other fisheries products from the community sector and, to some degree, the non-community commercial sector. The system has worked relatively well and provided catch statistics that have previously been unavailable.

After two years of operation the system has been relatively well accepted by most fishers and processors. Given the degree of acceptance the system has and the fact that many fishers will continue to take/retain a range of species during a fishing trip – some of which may be managed under quota and some not – there is a proposal to adapt the docket book system as the source of landings data for the TRL fishery and the first step in the QMS.

The following arrangements would be necessary in management’s view:

- a. All lobster must be landed in Torres Strait.
- b. Lobster could only be landed at certain places in the Torres Strait that would be known as declared landing points. Examples of this would be: Port Kennedy, Badu Island community beach etc. The intent would be that the points of landing would be controlled to those places where it could be reasonably expected that there is a legitimate reason to land the product.
- c. The docket book would be modified to include signature blocks for the seller and buyer to verify the weight of lobster by product form (e.g. tails or live).
- d. Legislation changed so that completing the docket book is compulsory, and making fish receiver permits granted under the TSFA compulsory for anyone receiving product.
- e. Quotas are generally monitored more closely than catch and effort, where logbooks must be submitted midway through the month after fishing took place. Rapid data

entry is important for effective quota monitoring, along with rapid data transfer for ensuring compliance with the QMS. It is proposed that:

- all dockets completed on a day be sent to the receiving office within 24 hours;
- in Torres Strait the most practical means of transferring the forms quickly is by FAX, though transfer by aircraft is also possible provided the cost is manageable (this is not an issue for TI-based operators); and
- all forms be keypunched on the day they are received.

These changes are significant for both sellers and buyers and for Management.

Some people may choose not to sell their product in Torres Strait after landing it here. In this case the docket book would not be appropriate and a different form would be required. It is proposed that the sole point for landing product that is not sold should be Horn Island. This product might have to be weighed on certified scales prior to shipping it out of Torres Strait.

While docket books could be a practical way of collecting landing data and monitoring caught/decremented quota at point of sale, it would almost certainly have to be followed up with dockets referred to in other fisheries as "Sales and Transfer" dockets. These dockets would be completed by the processor who on-sells or moves the product from the point of purchase. They would work in combination with the docket books to ensure there was no more or less product being on-sold or shipped than was landed.

Example:

Docket Books Landings (purchases) from Buyer 1				
Date	Seller's name	Licence	Product form	Weight
3/02/2007	Joe Bloggs	FXXX	Live	53.2
3/02/2007	Fred Bloggs	WBI976	Tails	31.7
3/02/2007	Charles Bloggs	WBI477	Tails	17.5
4/02/2007	Bob Bloggs	FZZZ	Tails	35.8
4/02/2007	Bob Bloggs	FZZZ	Live	23.1
4/02/2007	Gertrude Bloggs	TRAWQ666	Live	76.4
			Total Tails	108.1
			Total Live	152.7
Sales and Transfers from Buyer 1				
Date	2 nd Buyers name	Qld Licence	Product form	Weight
7/02/2007	Beautiful lobsters	456732	Live	100
7/02/2007	Beautiful lobsters	456733	Tails	100
Balance at Buyer 1 premises should be				
			Live	8.1
			Tails	52.7

Completion, submission and processing of Sales and Transfer dockets would have to be on the same time scale as the docket book data. Amendments to the Act are needed to ensure that these data can be required of processors who are outside of the protected zone, e.g. on Thursday Island.

Feedback is an important part of this system. Quota holders, whether they are individual licence holders, companies or communities, should be provided with reports about the amount of quota they have used and the amount remaining. The timetable for provision of such information is something the Working Group should consider in respect of the

system outlined. For example, quota holders could be notified when they have used 75% and 90% of their quota. Quota holders could also contact the responsible office for a quota balance.

A system known as IVR (interactive voice reporting) has been suggested (consultants report) as a possible alternative to a paper-only system. The advantage of such a system is that fishers can rapidly and easily report their landings via telephone. Processors could also report sales and transfers. These systems are in use elsewhere and have been found to work well. However, the system uses phone lines or mobile technology, which may not be as reliable or widespread in Torres Strait as they are elsewhere. There can be chaos when the technology on which the system depends fails. It is recommended that this system be considered once QMS is operational and stakeholders are familiar with the system.

Other Issues

Dual endorsed or single endorsed Qld operators

It is proposed (and generally supported so far) that operators who have access to the Qld fishery are allowed to only fish in one area of jurisdiction on a trip.

Example:

A licence holder makes a fishing trip in the Torres Strait. The boat departs TI for the Torres Strait fishery and fishes for 5 days in the Torres Strait. The licence holder then decides that they would prefer to fish on the east coast. The boat must return to Thursday Island to unload and then depart for the east coast. It may be a requirement that the licence holder reports leaving and re-entering the area of the Torres Strait fishery.

The TSF Act may need to be amended to ensure that the powers to enforce single jurisdiction fishing are clearly articulated, however it appears that through the powers to determine plans of management for the fishery such powers exist presently – legal advice is needed to confirm this.

PNG

PNG cross-endorsed operators will be required to report catches taken in the Australian area of jurisdiction before departing the Australian area. They may be required to undergo an inspection to verify the weight of product on board before departing. All product on board the boat will be deemed to have been taken from the Australian area, i.e. Australia will assume single jurisdiction fishing. PNG will also be strongly encouraged to report the landings of product taken from the Australian area on an annual or bi-annual basis.

Common units of measurement

Lobsters are taken as both tails and live. It will be necessary to adopt a common unit of measure for the allocation and monitoring of quota. It is suggested that the unit be live weight.

A conversion factor is also required. AFMA has generally used a factor of 2.32 to convert tails to live weight, eg. 1kg of tails is equivalent to 2.32kg of live lobsters. Industry has typically used a factor of about 2.4. This issue may arise because of when the tails are weighed. A freshly tailed lobster tail is probably somewhat heavier than a frozen tail that may have been allowed to drip dry and then been further dried during freezing. These issues should be resolved by a controlled experiment and the working group should agree on a conversion figure.

Experiment – possible design		
6 lobsters (3 male 3 female) 90 – 100 CCL	wet tail wts	frozen tail wts
6 lobsters (3 male 3 female) 100 – 110 CCL	wet tail wts	frozen tail wts
6 lobsters (3 male 3 female) 110 – 120 CCL	wet tail wts	frozen tail wts
6 lobsters (3 male 3 female) 120 – 130 CCL	wet tail wts	frozen tail wts
Estimate mean CCL in fishery for males and females and estimate conversion ratio for that size from above data for each sex and finally use weighted average based on sex ratio of the catch.		

If tags were found to be a viable alternative “monitoring” tool then it is conceivable that the quota could be allocated as the numbers of lobsters that could be harvested rather than their weight. Compliance would not need to ensure that the weight taken corresponded with the TAC, ITQs or other allocation units (e.g. a communities’ allocation). A sole objective might be to simply ensure that each lobster taken was tagged. Were this to be the case then it may be necessary for the working group to agree on a standard weight of lobster to convert a TAC to the right number of tags. This would involve estimating an average weight, which is affected by when and where the lobsters are taken. This will be a special project for the researchers/RAG if it is necessary.

Under- and over-catches

In quota-managed fisheries it is not uncommon for some fishers to take less than their allocated quota. This can happen for any number of reasons ranging from illness, equipment breakdowns, and economic drivers to the quota allocated being greater than what the fisher can take during the relevant period. There is usually a strong desire to carry forward uncaught quota to the next period. However, this is generally not allowed and it is proposed that there be no carry-over of quota in the TRL fishery.

Sometimes fishers may over-catch their quota. For example they may have 350kg of quota remaining to catch but they catch 375kg – 25kg in excess. This can happen for any number of reasons. There are several ways to deal with this problem:

- a. Provide (for example) a 2% over-quota allowance, which is deducted from the quota assigned for the next period, e.g. 1,000kg quota exceeded by 2% is a 20kg amount so a reduction of 20kg is made at the next allotment of quota;
- b. Apply a penalty such that a 2% percent over-quota amount in one year becomes a 4% deduction from the next year’s quota – e.g. 1,000kg quota exceeded by 2% is a 20kg amount so at the next allotment of quota a reduction of 40kg is made; or
- c. Apply a penalty, i.e. a fine. Since 20kg is a valuable quantity of lobster, the penalty would need to be quite high to provide a meaningful disincentive (e.g. 20kg X \$40 = \$800), so a penalty would need to be several times that amount (see below).
- d. Larger over-quota amounts in other fisheries generally result in prosecutions and/or licence suspension/cancellation.

Other over-quota situations are deliberate attempts to catch more product that has been allocated. These situations would generally lead to a prosecution. It is possible that many quota offences could be for small amounts of catch, however the sum of many small amounts can become significant. These situations are usually resolved by a careful audit (often by professionals with audit skills) to establish the amounts that have been taken.

Penalties

The integrity of a quota management system is likely to rest on the information that is submitted by quota holders and processors. This situation is distinctly different from the current input management system where the integrity of the system depends on limiting the number of tenders and dinghies, use of hookah etc. The implications for penalties are therefore quite different.

Many of the existing penalties in the TSF Act for offences that may be committed are not high relative to the value of the product and the financial gains that might be possible by exceeding quota. However, quota offences may involve the falsification of paperwork, which is an offence under the Criminal Code and is punishable by imprisonment for a period up to 12 months (see appendix 1). Despite the greater deterrent that the Criminal Code may present, a revision of penalties under the TSF Act is warranted.

Compliance

Compliance activities for the TRL fishery will be significantly different from the current activities. Greatest emphasis needs to be placed on ensuring the integrity of the quota system. Comparatively less emphasis will be needed on how the lobsters are caught. It is possible that controls on the following aspects of the fishery can be relaxed:

- prohibition on night diving;
- prohibition in hookah diving during spring tide closures;
- master fishermen's licensed operators in each tender;
- numbers of tenders used; and
- boat lengths.

Seasonal closures and size limits must remain as important parts of the fishery management arrangements.

Research

Completion/submission of logbooks is currently required of licence holders in respect of all boats greater than 7m in length. These logbooks are primarily for research and will remain an important part of the research program, collecting both catch and effort information at a fine geographic scale. No paperwork associated with the quota system will replace this important source of information.

One preseason survey has been completed. How well this survey works to predict the abundance of legal size lobsters in the next season and assist in the TACC-setting process will be partially tested in 2006. Ongoing review of the survey will be necessary. Its application to the PNG area of jurisdiction and the implications of not conducting a survey in that area (as is the present case) will need to be reviewed and considered by the RAG and in the catch sharing process.

Summary

Fishing under a quota system will represent a significant change for the Torres Strait Tropical Rock Lobster Fishery. It will require, one way or another, more paperwork and a need for timely reporting both from fishers to authorities and from authorities to fishers. It will require a different emphasis on compliance and will require new compliance skills.

RECOMMENDATION

That the Working Group considers the options for quota management in the TRL fishery and develops a recommendation to the PZJA on a preferred QMS.

Agenda Item 6.3 Allocation process

PURPOSE

To advise the Working Group of the process for resource allocation in the TRL fishery (FOR INFORMATION).

BACKGROUND

The Working Group is not expected to provide advice to the PZJA on matters of allocation; this will be done through an independent Allocation Advisory Panel (AAP). The PZJA will consider an Information Paper on Allocation Advisory Panels at PZJA 19 – this paper has been released for comment and is available on the PZJA website.

Commercial sector

Independent Allocation Advisory Panel

An independent AAP will be set up to advise the PZJA on the catch ratio and the most appropriate allocation system between commercial sectors within the TRL fishery. The AAP will be provided with the necessary information and briefing material by the PZJA Agencies.

The AAP has an advisory role only – any allocation decisions will be made by the PZJA.

An AAP will be comprised of up to three members, determined by the PZJA according to membership criteria (more information is contained in the Information Paper). The PZJA will consider allowing an additional member to act as an observer on behalf of the Torres Strait Traditional Inhabitants. The Traditional Inhabitant observer will act as an advisor to AAP members on relevant indigenous issues, but will not share in the production of recommendations for the PZJA. The AAP and observer will be bound to confidentiality agreements.

Extensive consultation is essential to develop an appropriate allocation system, and the AAP will consult widely with stakeholders and relevant parties and experts prior to developing advice for the PZJA.

The AAP will provide draft advice on a preferred allocation system to the PZJA for comment before providing its final recommendation, the timeframe to be agreed with the PZJA.

Community (TIB) sector

Allocation for the TIB sector will be decided by Traditional Inhabitants through a process internal to that sector, potentially via an AAP. It has been suggested by the TSRA that the Traditional Inhabitant observer on the commercial AAP could sit on an AAP established to determine an allocation system for the TIB sector.

RECOMMENDATION

That the Working Group notes the process for resource allocation in the TRL fishery.

APPENDIX 1: EXTRACT FROM THE CRIMINAL CODE

The Criminal Code **Schedule**

The proper administration of Government **Chapter 7**

False or misleading statements **Part 7.4**

False or misleading information or documents **Division 137**

Section 137.1

Criminal Code Act 1995 247

Division 137—False or misleading information or documents

137.1 False or misleading information

(1) A person is guilty of an offence if:

(a) the person gives information to another person; and

(b) the person does so knowing that the information:

(i) is false or misleading; or

(ii) omits any matter or thing without which the information is misleading; and

(c) any of the following subparagraphs applies:

(i) the information is given to a Commonwealth entity;

(ii) the information is given to a person who is exercising powers or performing functions under, or in connection with, a law of the Commonwealth;

(iii) the information is given in compliance or purported compliance with a law of the Commonwealth.

Penalty: Imprisonment for 12 months.

(1A) Absolute liability applies to each of the subparagraph (1)(c)(i), (ii) and (iii) elements of the offence.

(2) Subsection (1) does not apply as a result of subparagraph (1)(b)(i) if the information is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3).

(3) Subsection (1) does not apply as a result of subparagraph (1)(b)(ii) if the information did not omit any matter or thing without which the information is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3).

(4) Subsection (1) does not apply as a result of subparagraph (1)(c)(i) if, before the information was given by a person to the Commonwealth entity, the Commonwealth entity did not take reasonable steps to inform the person of the existence of the offence against subsection (1).

Schedule The Criminal Code

Chapter 7 The proper administration of Government

Part 7.4 False or misleading statements

Division 137 False or misleading information or documents

Section 137.2

248 Criminal Code Act 1995

Note: A defendant bears an evidential burden in relation to the matter in subsection (4). See subsection 13.3(3).

(5) Subsection (1) does not apply as a result of subparagraph (1)(c)(ii) if, before the information was given by a person (the **first person**) to the person mentioned in that subparagraph (the **second person**), the second person did not take reasonable steps to inform the first person of the existence of the offence against subsection (1).

Note: A defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3).

(6) For the purposes of subsections (4) and (5), it is sufficient if the

following form of words is used:

"Giving false or misleading information is a serious offence".

137.2 False or misleading documents

(1) A person is guilty of an offence if:

- (a) the person produces a document to another person; and
- (b) the person does so knowing that the document is false or misleading; and
- (c) the document is produced in compliance or purported compliance with a law of the Commonwealth.

Penalty: Imprisonment for 12 months.

(2) Subsection (1) does not apply if the document is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3).

(3) Subsection (1) does not apply to a person who produces a document if the document is accompanied by a written statement signed by the person or, in the case of a body corporate, by a competent officer of the body corporate:

- (a) stating that the document is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
- (b) setting out, or referring to, the material particular in which the document is, to the knowledge of the first-mentioned person, false or misleading.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3).

The Criminal Code **Schedule**

The proper administration of Government **Chapter 7**

False or misleading statements **Part 7.4**

False or misleading information or documents **Division 137**

Section 137.3

Criminal Code Act 1995 249

TORRES STRAIT TROPICAL ROCK LOBSTER WORKING GROUP	Meeting Date 28 February - 2 March 2006
Review of Master Fisherman's Licences (AFMA)	Agenda Item No. 7 FOR RECOMMENDATION

PURPOSE

For the TRLWG to consider whether the current requirement for Master Fisherman's Licences should be reviewed, and to provide a recommendation to the TSFMAC.

BACKGROUND

In 1989 a TSFIICC "Rock Lobster Working Party" developed arrangements approved by the PZJA to achieve the following four policy objectives:

1. Orderly development of the fishery;
2. encouragement and facilitation of participation by Australian traditional inhabitants for whom future expansion of the fishery should be reserved;
3. containment of the capacity of the existing commercially licensed fleet to eliminate entrepreneurial speculation and subsequent upgrading/replacement of commercially licensed dinghies by large boats; and
4. minimal impact on existing operators.

The Working Party proposed that these objectives be achieved by:

1. allowing expansion of islander involvement in the fishery by
 - a. continuing unlicensed community fishing;
 - b. allowing the issue of new catching and carrier-processor boat licences to islanders; and
 - c. allowing the issue of master fisherman's licences to islanders (MFLs).
2. Containing the expansion of non-islander involvement in the fishery by:
 - a. Ceasing the issue of new catching and carrier-processor boat licences to non-islanders;
 - b. Introducing a primary/tender boat system and restricting non-islander primary boats to their current tenders;
 - c. Restricting the ability of catching and carrier/processing boats to be upgraded;
 - d. Ceasing the issue of new MFLs to non islanders except in special defined circumstances;
 - e. And other arrangements less relevant to the issue of this paper.

The recommendation with regard to the MFLs was "..... *no further MFLs to be issued to non-islanders except where the boat licence is transferred and the new owner does not have a MFL; in this case the rock lobster endorsement on the MFL to remain valid only for the period in which the applicant remains the owner of, or continues to be the sole nominee for, the specified boat; should the boat licence be transferred after this then the rock lobster endorsement on the MFL will cease to have effect*" (this applied only to those who obtained licences after 1988).

The PZJA approved of these and other recommendations and directions to delegates were issued accordingly in February 1989.

Each Torres Strait Fishing operation (licensed as TVHs) consists of a primary fishing boat and usually one or more tenders. Regardless of which fishery the boats are authorised to work in A MFL holder is required aboard each operating boat.

As of 16 February 2006 there are in existence 146 MFLs with a CR endorsement which are current or have expired within the past 3 months (i.e. the period during which an expired licence can be renewed). Of these, 30 were granted prior to 1989 and 116 were granted after 1989. Of the 116 current MFLs issued since 1989, 33 are held by non-community fishers and 83 are held by persons identified by their Island Council chairperson and the ICC Chairperson as traditional inhabitants.

The 33 MFLs issued since 1989 which are held by non-community fishers have been issued on the basis of a letter of nomination from the holder of a CR endorsed Torres Strait Fishing Boat Licence (TVH). Nominations can not come from lessees of the TVH licence(s). Nominated MFL licences are issued subject to a condition limiting the holder of the licence to only work aboard the boat for which they have been nominated and its associated tenders (e.g.

“This licence is issued in respect of the licensed Torres Strait primary fishing boat “[boat name]” “[boat mark]” and associated tender boats only.”)

Of these 33 nominated MFLs, only 22 nominations are still current. The remaining 11 nominations have been withdrawn (denominated). See attachment for more details.

Industry has questioned the continued use of MFLs in the Torres Strait and asked that the issue be tabled. The Qld Rock Lobster Association (QRLA) provided a response to the PZJA out-of-session requirement that:

“Our members would also like the PZJA to consider removing the requirement that Master Fishermen's licences are now only issued to Traditional Inhabitants. It is becoming increasingly difficult for Commercial operators to source master fishermen from indigenous operators and therefore are unable to fully utilise all tenders to which they are entitled.”

In the Community fisher group response of 21 December 2005 it states that:

“Community representatives oppose QRLA's notes to consider “tender trading” in the 2006 fishing season and their request to review the Torres Strait Master Fisherman licence conditions in the non-Traditional Inhabitants sector.”

Iama Fisheries Association also responded on 20 December 2005 with: *“We are requesting for a review of dual Master's licences holders with CR endorsement to forfeit one.”*

Certain TVH holders in the tropical rock lobster fishery have enquired about employing another non-community fisher to work their operation while they (the TVH holder) go on holidays. Such persons have been advised that their own pre-1989 MFL licence must be surrendered in return for a new MFL to be issued to their replacement. Then when the TVH holder returns, the nominated MFL holder must be denominated and their licence returned, so the TVH holder can apply for a new MFL themselves which would then be subject to a condition limiting them to working aboard their own boat.

Having received this advice, some TVH holders have claimed that this advice is incorrect and that other operators in the industry are not working this way (the TVH holder may say they see different people working aboard other boat marks all the time). When staff in Licensing Unit explain that this is how the nominated MFL system works and that the changing faces on other operations must be nominated in a one-for-one replacement scheme, the disputing TVH holders do not believe this.

Boats operating without a licensed MFL aboard each boat are doing so illegally. As a portion of all MFL are issued without a condition (i.e. issued pre-1989 or issued to a traditional

inhabitant), it is not possible for Licensing Unit to police whether sufficient MFLs are working aboard a fishing operation. It therefore falls to the Boating and Fisheries Patrol Officers when boarding boats on the water to confirm with Licensing Unit whether a nomination on a MFL is still current. Only then can unlicensed operators be detected. Such checks come at a cost in terms of staff time when they could perhaps be addressing other higher priority risks to the fishery.

The 2005 report by Molloy & de Fries ("Options for a Quota Management System for the Torres Strait Tropical Rock Lobster Fishery") recommended that the utility of current input controls be re-examined once the fishery comes under quota management. It is therefore timely for the Working Group to reconsider the intention of MFLs, whether the/se objective/s is/are being achieved, and whether MFLs are still appropriate for the TRL fishery.

DISCUSSION

In November 2005 the PZJA announced the decisions from its 18th meeting. In the lobster fishery the PZJA agreed that the Australian share of the catch should be shared 50:50 between community and non-community sectors. In an accompanying press release it was revealed that the Queensland Government would fund the transition of the current shares to the 50:50, while the Australian Government would fund payments through a voluntary tender to non-community fishers to account for the share of the fishery to which PNG is entitled.

These new arrangements are due to commence in 2007 when a new quota management system is introduced to the fishery. There is a view that when these arrangements are in force that restrictive measures on the non-community sector such as those described in the background section will no longer be needed, and that each sector should be allowed to pursue the business of fishing with as few impediments as possible.

The fishery is now in a transition period where the future has been more or less defined but much work is required to get there. During this period it is highly unlikely that there will be any significant changes to existing arrangements. In line with this management arrangements for 2006 were essentially rolled over from 2005.

Is the restricted granting of MFLs or indeed the requirement for MFLs relevant during the period leading up to the introduction of a quota management system? There is little doubt that retaining the current arrangements will result in some additional employment opportunities for traditional inhabitants. It is not possible to quantify the number of jobs that the policy may maintain/create. A decision to end these arrangements must be weighed against the treaty objectives and the ability of the non-community sector to do business with the tenders that are legally licensed to undertake fishing operations.

It seems unlikely that the intention of the 1989 policy described above was designed to limit fishing effort *per-se*. Regardless of this, the difficulty reported by non-community operators to find sufficient crew with MFLs to operate all of their tenders has probably restricted fishing effort to some degree (hence the sector's position on the policy). While the stock assessment has not been updated yet, it is likely to reveal a fishery that is close to if not fishing beyond the rate at which MSY is achieved. It is therefore reasonable for the Working Group to consider this risk and the impact of relaxing the current policy in that context as well as giving consideration to the issue in the context raised by industry. With an updated assessment available by the end of March perhaps it would be prudent for the working group to review this before making a recommendation which could be done out of session and provided to the TSFMAC in time for the PZJA meeting in April.

RECOMMENDATIONS

That the TRLWG:

1. recommends a policy on the grant of MFLs to non-community fishers during the period prior to the implementation of the new management arrangements; and
 2. considers the utility of MFLs TSFMAC in the longer-term with a view to building any new arrangements into the management plan.
-

PRACTICAL ISSUES ASSOCIATED WITH THE NOMINATION AND DE-NOMINATION OF MFLS.

Ideally, when a nominated MFL holder is denominated, their MFL licence should be returned to Licensing Unit with a letter from the named that either:

- a) they anticipate that they will be nominated on another TVH licensed boat before their MFL licence expires, therefore request that the MFL be held in the Licensing Unit office until either:
 - i) a new nomination is received (their licence would then be amended to reflect the nomination), or
 - ii) their licence expires (without a new nomination, the licence is ineligible for renewal), or
- b) they anticipate that they will not be working on another TVH licensed boat before their licence expires, therefore wish to surrender the licence, or
- c) they wish to have their licence changed to the prawn fishery (which requires no nomination).

In most instances, denominated MFL licences are **not** returned, or are not accompanied by the letter from the MFL holder stating what they wish to have happen with the licence until it expires. As the MFL holder's address is most often via their now-former employer (either the TVH holder or the lessee of the TVHs aboard which the MFL holder was working), there is often no avenue of pursuing the MFL holder to get the licence returned or obtain their advice.

Nomination of a new MFL holder requires that an existing MFL licence for that operation be surrendered (if issued pre-1989), or denominated and/or surrendered (if issued post-1989). TVH holders often complain that it is logistically impossible for them to organise return of the denominated licence (which sometimes can not be retrieved once an employee leaves) before a new licence is issued for a newly nominated holder. Accordingly, the requirement to have the old MFL licence back before issuing a new MFL licence has been discontinued.

At some time during the past, the PZJA approved a temporary scheme where TVH CR operation could surrender a tender TVH licence in exchange for an additional MFL issued to a non-traditional. Inadequate records have been kept in the past to properly determine how many non-traditional MFLs every TVH CR operation is truly entitled to have now. An intensive search through the boat file **might** reveal documentation of a surrendered TVH, but **may not** contain information of a surrendered or expired MFL which was not immediately replaced with another nominated MFL.

The closest that Licensing Unit can come to equitably handling this situation, is to allow one-for-one nominations/denominations for non-community fishers on the basis of one MFL per boat for the operation.

TORRES STRAIT TROPICAL ROCK LOBSTER WORKING GROUP	Meeting Date 28 February-2 March 2006
Membership on the Resource Assessment Group (AFMA)	Agenda Item No. 8 FOR RECOMMENDATION

PURPOSE

To seek a recommendation from the TRLWG for membership on the TRL Resource Assessment Group (RAG).

BACKGROUND

PZJA Decisions

The PZJA **AGREED** at PZJA 18:

- to the draft terms of reference, reporting arrangements and operational guidelines for a TRL RAG (Torres Strait Fisheries Administration Paper 2. *Fisheries Assessment Groups – Roles, Responsibilities and Relationships with Torres Strait Fisheries Working Groups, the Torres Strait Fisheries Management Committee, and the Torres Strait Scientific Advisory Committee. AFMA 2005*); and
- The PZJA **AGREED** for the Chair to write to Papua New Guinea and Queensland to formally invite them to participate in the RAG process with the ultimate aim of assessing the three jurisdictions jointly.

Membership of RAGs (excerpt from Torres Administration paper 2)

A stock assessment that engenders a strong management response may bring the RAG into conflict with sectors of industry or attract political attention. Therefore, members of the RAG must be credible, expert and impartial in undertaking their assessments. Appointments to PZJA RAGs must be formalised.

A RAG should be composed of sufficient members with the expertise to carry out its functions. In addition to scientific members, a RAG must have a PZJA management agency member, and Industry (Islander and non-Islander) membership to ensure different perspectives and knowledge sources are recognized and brought to the table. Normally a minimum number of members would be a chair, a management agency member, two industry members and at least one scientific members providing stock assessment expertise. It is preferable that RAGs include a conservation member with a good knowledge of ecology where required.

Like the selection procedure for the Chair of the TSFMAC, the chair of the RAG will be offered to an expert of high standing. The PZJA will formally appoint RAG chairs.

*Appointments to RAGs will be expertise based, **usually by selecting from nominations provided by the TSFMAC**. The PZJA, upon consideration of the TSFMAC nominees and advice from a panel comprising a member of a management agency, and Islander and non Islander sectors, will make formal appointment of members. The normal appointment period will be three years. Subsequent re-appointments will be permitted.*

Interim Nominations

Clearly the TSFMAC is not meeting in time for it to nominate members to the RAG and for a selection panel to be convened before the RAG meeting (1 working day between the TSFMAC and RAG). Given that the word “usually” was used it is proposed that this time an exception be made and that the working group should nominate 1 traditional inhabitant member and 1 non-traditional inhabitant member to attend the first meeting and unless the group feels it is necessary to review the nomination to be a member for the next three years.

A further interim arrangement is the chair of the RAG where it has been proposed that the AFMA Senior Manager – Research will act as the chair for the first meeting. This has the advantage that he brings with him relevant RAG experience that will assist the RAG in establishing its work plan.

Other Nominations/proposed members

Nominations have since been received from Queensland and PNG for their membership.

Research Scientist	<i>Yimin Ye</i>
Independent Scientist	<i>Nokome Bentley</i>
QLD Industry	<i>Jim Fogarty</i>
QLD Scientist	<i>Clive Turnbull</i>
QLD Management	<i>Wez Norris</i>
PNG Industry	<i>Meremi Maina</i>
PNG NFA	<i>Phillip Polon</i>
AFMA Management	<i>Jim Prescott</i>

RECOMMENDATION

That the TRLWG nominate to members to the RAG one of whom should be a traditional inhabitant and one a non-traditional inhabitant. Both nominees should have extensive knowledge of the fishery and be fully prepared to act in accordance with the *Terms of Reference* for the RAG.

TORRES STRAIT TROPICAL ROCK LOBSTER WORKING GROUP	Meeting Date 28 February - 2 March 2006
Fishery Objectives (QDPI&F)	Agenda Item No. 9 FOR DISCUSSION

PURPOSE

That the TRLWG identify and prioritise projects and resources, as per TSFMAC instructions, in relation to the fishery management objectives.

BACKGROUND

At the TRLWG meeting in May 2004, the group revised the objectives for the fishery and recommended these to the TSFMAC. The group noted that having clear and achievable objectives is essential to good management of the fishery and was one of the recommendations made by DEH through the fishery accreditation process.

At the TSFMAC meeting in July 2004, the objectives from the working group were considered and the following recommendations from the TSFMAC were made:

- 35) *The TSFMAC noted the management objectives, strategies and performance measures developed by the TRL Working Group for the TRL fishery.*
- 36) *The TSFMAC endorsed the progress to date and referred the objectives back to the TRLWG with the advice that the management objective relating to managing fisheries interactions should be discussed with the Prawn Working Group, and objectives and strategies be prioritised with respect to available resources.*
- 37) *The TSFMAC endorsed all the objectives developed by the TRL WG subject to the highest priority work requested being carried out first.*

Since these meetings in 2004, the PZJA in January and February 2005 agreed that a catch quota management system (QMS) for the fishery will commence from 2007.

The objectives developed to date by the working group have been amended to reflect the requirements of the QMS. The working group is now requested to prioritise the objectives and strategies with respect to available resources as per TSFMAC instructions. The objectives and strategies for the fishery are listed in the table below (Table 1).

RECOMMENDATIONS

That the TRLWG:

- i) consider the list of fishery management objectives, determine the projects required and recommend the order in which these should be prioritised; and
- ii) establish a process for discussing the objectives relating to fisheries interactions with the Prawn Working Group.

Table 1. TORRES STRAIT TROPICAL ROCK LOBSTER FISHERY OBJECTIVES

Management objective (proposed)	Primary Strategy	Projects Required/Programme	Resourcing Action	Priority
<p>1) To maintain fishing mortality below the point where MSY is achieved (accounting for all sources of fishing mortality).</p> <p>Performance measure: Fishing mortality (F)</p> <p>Performance indicator: FMSY</p>	<p>a) Implement a TACC based on a pre-season survey of recruit abundance</p> <p>b) maintain a catch and effort logbook and docket book program that produces comprehensive and accurate data from the fishery</p> <p>c) Estimate fishing mortality (F) at end of season</p> <p>d) Implement Decision Rules to correct over or under utilisation within a specified time</p> <p>e) Maintain appropriate size limits and closed seasons</p> <p>f) Cooperate and support research and management in PNG and on Qld east coast</p> <p>g) g) Provide appropriate compliance resources</p>	<p>a) Ongoing Annual Surveys</p> <p>b) Ongoing catch monitoring</p> <p>c) Stock Assessments</p> <p>d) Develop decision rules by December 2005</p> <p>e) Ongoing review of management arrangements</p> <p>f) Complementary management arrangements to be pursued with PNG and Qld</p> <p>g) Develop formal compliance risk assessment and strategy by December 2005</p>	<p>a) Determine sources of funding for 2007 onwards</p> <p>b) Management and RAG</p> <p>c) RAG and TRLWG</p> <p>d) TRLWG and RAG</p> <p>e) Management</p> <p>f) Compliance</p>	<p>1</p> <p>2</p>
<p>2) To protect the traditional way of life and livelihood of traditional inhabitants, in particular in relation to their traditional fishing for TRL</p> <p>Performance measure: traditional fishing success</p> <p>Performance indicator: (reference points to be identified for traditional fishing)</p>	<p>a) Identify reference points for traditional fishing</p> <p>b) TACC set to ensure traditional fishing targets are met</p>	<p>a) Project to identify cultural/traditional values and areas and identify appropriate reference.</p> <p>b) RAG to consider traditional fishery in making a TACC recommendation.</p>	<p>a) Current CRC-TS project??</p> <p>b) RAG</p>	
<p>3) To provide for the optimal utilisation, cooperative</p>	<p>a) Ensure mechanisms for information collection and sharing</p>	<p>a) Ongoing catch monitoring to include PNG catches – as listed previously</p>	<p>a and b) Management (bilateral arrangements)</p>	

<p>management, and for catch sharing to occur with PNG</p> <p>Performance measure: catch shares and complementarity of arrangements</p> <p>Performance indicator: shares harvested as per Article 23</p>	<p>is in place so utilisation can be optimised</p> <p>b) Links are established with the relevant authorities in PNG and with the PNG traditional inhabitants</p> <p>c) Extension of annual survey and stock assessment results</p>	<p>b) Ongoing Management arrangements</p> <p>c) Communication via bilateral fisheries meetings and RAG</p>	<p>c) Management (bilateral arrangements) and RAG</p>	
<p>4) To manage interactions between the prawn and lobster fisheries</p> <p>Performance measure: interactions are kept to a level acceptable to stakeholders</p> <p>Performance indicator: Important tropical rock lobster habitat remains untrawled and bycatch of lobsters is minimised.</p>	<p>Identify critical areas/periods of interaction with the trawl fishery and segregate as appropriate</p>	<p>Industry (including Prawn Working Group) consultation</p>	<p>Management/TRLWG/PWG</p>	<p>3</p>
<p>5) To maintain appropriate controls on fishing gear allowed in the fishery so as to minimise the impacts on the environment</p> <p>Performance measure: environmental impacts</p> <p>Performance indicator: minimal damage to the environment and harvest of sub-legal size/bycatch minimised</p>	<p>Policy and legislation for appropriate controls developed</p>	<p>Ongoing management arrangements</p>	<p>Management/TRLWG</p>	
<p>6) To promote economic development in the Torres Strait area with an emphasis on providing employment opportunities for traditional inhabitants, and to ensure that these development opportunities are socially and</p>	<p>a) Commission the research necessary to better understand this objective and then give effect to it in a logical manner.</p> <p>b) Maintain as a dive fishery</p> <p>c) Implement appropriate policies/legislation. Implement quota</p>	<p>a) Research project required</p> <p>b) Ongoing management arrangements</p> <p>c) Evaluation of potential mechanisms and available support programs</p>	<p>a) TRLWG/TSSAC</p> <p>b) Management /TRLWG</p> <p>d) c) Management/ TRLWG</p>	<p>4</p>

<p>culturally appropriate</p> <p>Performance measure: community fishing share of Australian catch</p> <p>Performance indicator: at least 50% of catch taken by community fishers</p>	<p>trading policies to promote net shift of quota to traditional inhabitant commercial fishers</p>			
<p>7) Maximise the value of the catch</p> <p>Performance measure: Catch value</p> <p>Performance indicator: Value for Torres Strait product is consistently high relative to general market price</p>	<p>a) Create a legislative framework that promotes the fishery for live lobsters</p> <p>b) Investigate opportunities for marine farming of lobsters</p> <p>c) Investigate and encourage uptake of more efficient harvest strategies in the community sector</p>	<p>a) Ongoing management arrangements</p> <p>b) Research project required</p> <p>c) Extension project and evaluation of available support projects</p>	<p>a) Management/ TRLWG</p> <p>b) TS Aquaculture Committee/ TSSAC</p> <p>c) Management/ TSRA</p>	

Decision Rules

Setting the TAC (80-90% of MSY – what is the equivalent FMSY). Need to agree on this before stock assessment is done.

Performance indicator FMSY is model dependent, won't know how fishery is tracking on this until end of season when stock assessment is done. Need some observable indicators as well (CPUE, Catch vs. TAC)



TORRES STRAIT TROPICAL ROCK LOBSTER WORKING GROUP	Meeting Date 28 February - 2 March 2006
Strategic Assessment Update	Agenda Item No. 15.2 FOR INFORMATION

PURPOSE

To inform the TRLWG of status of the strategic assessment of the fishery

BACKGROUND

AFMA environment section staff recently met with senior DEH staff concerning reporting requirements for WTOs. The TS Tropical Rock Lobster Fishery was identified as the fishery about which DEH had most concerns at the Commonwealth level. AFMA staff explained that annual reporting on the fishery through the PZJA Annual Report but that would take some time to come out. This was not acceptable to DEH and they indicated that AFMA would need to look at a more timely arrangement.

The WTO was declared on 24 November 2004, so the first report is now due. As part of preparation for the Environment Committee meeting in March AFMA has requested a summary of progress against the recommendations from TI based Staff. AFMA is, as indicated below in the WTO declaration, also required to report the extent to which the performance criteria of the Torres Strait Tropical Rock Lobster management arrangements were met in the year.

WTO Declaration

Commonwealth of Australia
Environment Protection and Biodiversity Conservation Act 1999
Declaration of an Approved Wildlife Trade Operation

I, Ian Campbell, the Minister for the Environment and Heritage, have considered in accordance with section 303FN of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) the application from the Australian Fisheries Management Authority, public comments on the proposal as required under S303FR, and advice on the ecological sustainability of the operation. I am satisfied on those matters specified in Section 303FN of the Act. I hereby declare the operations for the harvesting of specimens that are, or are derived from, fish or invertebrates, other than specimens listed under Part 13 of the Act, taken in the Torres Strait Tropical Rock Lobster Fishery, as defined in the *Torres Strait Fisheries Regulations 1985*, to be an approved Wildlife Trade Operation, in accordance with S303FN (2) and (10)(d), for the purposes of the Act.

Unless amended or revoked, this declaration:

- a. is valid until 24 November 2007; and
- b. is subject to the following conditions:
 1. Operation of the fishery will be carried out in accordance with the Torres Strait Tropical Rock Lobster management arrangements.
 2. The Australian Fisheries Management Authority will inform the Department of the Environment and Heritage of any changes to the Torres Strait Tropical Rock Lobster management arrangements or other significant policy documents

3. Reports to be produced and presented to the Department of the Environment and Heritage annually, and to include:
 - a statement of the extent to which the performance criteria of the Torres Strait Tropical Rock Lobster management arrangements were met in the year; and
 - information sufficient to allow assessment of the progress of Australian Fisheries Management Authority in implementing the recommendations made in the *Assessment of the Torres Strait Tropical Rock Lobster Fishery 2004*.

Dated this 16th day of November 2004

[signed]

Ian Campbell

Minister for the Environment and Heritage

WTO Recommendations

Recommendations to the Australian Fisheries Management Authority (AFMA) on the ecologically sustainable management of the Torres Strait Tropical Rock Lobster Fishery

Recommendation 1: Operation of the fishery will be carried out in accordance with the *Torres Strait Fisheries Act 1984* and the *Torres Strait Rock Lobster Statement of Management Arrangements*. AFMA will inform DEH of any changes to the Act or the Statement.

Recommendation 2: AFMA to continue to ensure that consultative processes are conducted in a manner that ensures the timely implementation of management responses essential for the sustainability of the fishery.

Recommendation 3: AFMA to develop clear objectives and performance measures for the fishery relating to target species and ecosystem impacts within 1 year. The performance of the fishery to be reviewed annually against these measures and the outcomes published. A biological reference point to be developed and implemented for rock lobster stocks.

Recommendation 4: AFMA to develop a clear process and timeframe for determining the reason for a performance criteria breach and implementing appropriate management measures within specified timeframes.

Recommendation 5: AFMA to conduct a formal compliance risk assessment of the TSRLF within 1 year and develop a strategy to implement any resultant recommendations.

Recommendation 6: Annual catch and effort statistics to be published and publicly available by the end of 2004.

Recommendation 7: AFMA to ensure that mechanisms are in place to ensure that adequate and reliable data on catch and effort, appropriate to the scale of the fishery, are collected from all sectors to ensure sustainable management of the TSTRL resource.

Recommendation 8: AFMA to continue to pursue complementary management arrangements with other jurisdictions responsible for managing shared rock lobster stocks to ensure that all removals and other relevant impacts on the stock are properly accounted for in stock assessments.

Recommendation 9: AFMA to control fishing mortality, through effort controls or other mechanisms across all sectors, to maintain stocks at ecologically sustainable levels.

Recommendation 10: AFMA will provide a report annually to the DEH on the progress in implementing the recommendations.

RECOMMENDATION

That the TRLWG note the ongoing requirements to retain the WTO status.

