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Torres Strait Finfish Management Plan



**TORRES STRAIT FINFISH FISHERY MANAGEMENT
PLAN 2012**

The Protected Zone Joint Authority, acting in accordance with the powers conferred on the Authority by section 15A and paragraph 35(1)(a) of the *Torres Strait Fisheries Act 1984*, makes the following Management Plan.

Dated this day of 2012.

The Hon Joseph Ludwig, MP
Commonwealth Minister for
Agriculture, Fisheries and
Forestry
Chairman of the Protected
Zone Joint Authority

The Hon Craig Wallace, MP
Queensland Minister for
Main Roads, Fisheries and
Marine Infrastructure
Member of the Protected Zone
Joint Authority

Mr John T Kris
Chairman of the Torres
Strait Regional Authority
(TSRA)
Member of the Protected
Zone Joint Authority

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Part 1 Preliminary

1.1 Name of Management Plan

This plan is the Torres Strait Finfish Fishery Management Plan 2012.

1.2 Commencement

This Management Plan commences on the day after it is registered on the Federal Register of Legislative Instruments.

1.3 Interpretation

In this plan, unless the contrary intention appears.

ALC means an Automatic Location Communicator that is part of the VMS equipment of a boat that transmits information:

- (a) about the location of the boat; and
- (b) with one or more other devices, about fishing activities being undertaken by the boat.

Act means the *Torres Strait Fisheries Act 1984*.

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

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

by-catch means marine life that is:

- (a) incidentally taken in the fishery and returned to the sea for any reason; or
- (b) incidentally affected by interacting with fishing equipment in the fishery but not taken.

by-product means non-target marine life that:

- (a) is incidentally taken in the fishery; and
- (b) may be taken under the Act or a relevant instrument under the Act; and
- (c) is retained for commercial purposes.

commencement date means the date on which this Plan commences.

competitive TAC means a TAC determined under section 3.2.

competitive TAE means a TAE determined under section 3.4.

developmental permit means a permit granted for developmental purposes in the fishery under section 12 of the Act.

dinghy means a boat, other than a primary boat or a tender:

- (a) to which no tenders are attached; and
- (b) that operates independently; and
- (c) the maximum length of which does not exceed the length determined by the PZJA.

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

finfish means reef fish and mackerel.

fisheries jurisdiction line means the Torres Strait fisheries jurisdiction line as described in the Treaty.

fishery means the Torres Strait Finfish Fishery.

fishing apparatus means hand held fishing lines or fishing rod and reel or mechanically operated reels and lines.

fish receiver licence means a licence to receive fish granted under section 19(4B) of the Act.

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fishing season has the meaning given by section 2.6.

group means a legal entity that represents traditional inhabitants.

harvest strategy means the management actions necessary to achieve specific biological and economic objectives in a fishery.

Holder, for a TSFF licence, a TSFF Treaty endorsement, or a unit, at a particular time, means the person who holds the licence, endorsement or unit at that time because of a grant of the licence or endorsement, transfer of the licence, or allocation or transfer of the unit.

local time means the time of day in the State of Queensland.

mackerel means fish of the following species:

- (a) Spanish mackerel (*Scomberomorus commerson*);
- (b) School Mackerel (*Scomberomorus queenslandicus*);
- (c) Grey Mackerel (*Scomberomorus semifasciatus*);
- (d) Spotted Mackerel (*Scomberomorus munroi*);
- (e) Shark Mackerel (*Grammatorcynus bicarinatus*).

mackerel entry means an entry on a TSFF licence, or a treaty endorsement, that allows the holder of the licence or endorsement to harvest mackerel in the fishery.

observer means a person approved by the PZJA to carry out the functions of an observer.

PNG means Papua New Guinea.

PNG boat means a boat for which a PNG licence is in force and which is endorsed to fish commercially in Australia under section 20 of the Act.

primary boat is a boat that:

- (a) is nominated to a licence for the fishery as the primary commercial fishing boat for the licence, from which any tender boats authorised by the licence may operate; and
- (b) is identified in the register as the primary boat for the licence; and
- (c) meets the requirements for a primary boat as determined by the PZJA.

PZJA means the Protected Zone Joint Authority.

PZJA website means web pages that form the Internet website for the PZJA.

quota species means a species or species group of finfish for which there is a TAC.

reef fish means all fish of the Superclass *Pisces*, other than:

- (a) mackerels (*Scomberomorus* spp.);
- (b) shark mackerel (*Grammatorcynus bicarinatus*);
- (c) tuna (*Thunnus* spp);
- (d) skipjack tuna (*Katsuwonus pelamis*);
- (e) fish of the Family *Bramidae* (pomfrets);
- (f) fish of the Families *Istiophoridae* and *Xiphiidae* (billfish).

reef line entry means an entry on a TSFF licence, or a treaty endorsement, that allows the holder of the licence or endorsement to harvest, process or carry reef fish.

reference point means an indicator of the level of some characteristic of the fishery used as a benchmark in assessing the performance of the objectives of this Plan.

Register means the register of licences kept under section 10 of the Act.

Regulations means the Torres Strait Fisheries Regulations 1985.

scientific permit means a permit granted for scientific purposes in the fishery under section 12 of the Act.

sunset licence means a licence, granted under section 19 of the Act, mentioned in section 4.3.

tender boat means a boat, other than a primary boat that:

- (a) operates in conjunction with a primary boat; and

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- (b) has the same owner as that primary boat; and
- (c) is nominated to a licence for the fishery and identified in the register as a tender boat for the licence; and
- (d) the maximum length of which does not exceed the length determined by the PZJA.

total allowable catch (TAC), for finfish species and a fishing season, means the total commercial catch of the finfish species that may be taken in the fishery in that fishing season, in accordance with a determination of the PZJA under section 3.1.

total allowable effort (TAE), for a fishing season, means the total commercial fishing effort that may be expended in the fishery in that fishing season, determined by the PZJA under section 3.3.

Torres Strait Finfish Fishery means the area described in Schedule 2 Item 4 and Item 7 of the Torres Strait Fisheries Regulations 1985.

traditional fishing means taking living natural resources of the sea, seabed, estuaries and coastal tidal areas by traditional inhabitants for their own or their dependants' consumption or for use in the course of other traditional activities.

traditional inhabitants means persons who:

- (a) are Torres Strait Islanders who live in the Protected Zone or the adjacent coastal area of Australia; and
- (b) are citizens of Australia; and
- (c) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities.

Treaty means the Torres Strait Treaty.

Treaty endorsement means an endorsement granted under section 20(1)(a) of the Act that allows the boat identified in the Treaty endorsement to be used:

- (a) for commercial fishing for finfish in the fishery; or
- (b) for carrying, or processing and carrying, finfish taken in the fishery by another Treaty endorsement boat.

TSFF boat licence means a licence granted under section 19(2) of the Act that has a reef line or mackerel entry that allows the boat identified in the licence to be used for commercial fishing for finfish in the fishery.

TSFF licence means a TSFF boat licence, a TSFF master fisherman's licence, TSFF non-boat fishing licence and a TSFF TPC licence.

TSFF master fisherman's licence means a licence granted under section 19(1) of the Act that allows the holder to be in charge of the boat referred to in a TSFF boat licence.

TSFF non-boat licence means a licence granted under section 19(4A) of the Act that has a reef line or mackerel entry that allows the holder of the licence to engage in commercial fishing for finfish in the fishery.

TSFF TPC licence means a licence granted under section 19(3) of the Act that has a reef line or mackerel entry that allows the boat identified in the licence to be used for carrying, or processing and carrying, product taken by boats with a TSFF boat licence or TSFF non-boat licence in the fishery.

TSFMAC means the Torres Strait Fisheries Management Advisory Committee or any other management advisory committee established for the fishery.

TSRA means Torres Strait Regional Authority.

unit means a unit of fishing capacity into which the fishing capacity is divided by the PZJA under Part 3.

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VMS means Vessel Monitoring System.

whole fish means fish that have head, fins and guts intact and have not been processed in any way.

whole weight means weight of a whole fish in kilograms.

NOTES: 1. The following terms used in this Plan are defined in the Act and have the same meaning as in the Act:

commercial fishing, community fishing, fishing, traditional inhabitant.

“Commercial fishing” also includes community fishing.

2. The fishery is also regulated by the Fisheries Management Regulations and by Regulations under the *Torres Strait Fisheries Act 1984*.

3. Sections 44 and 45 of the *Torres Strait Fisheries Act 1984* contain offences relating to the fishery.

1.4 Fisheries offence

- (1) In this Plan, a **fisheries offence**, for a licence holder, is an offence under the Act or another Act that relates to the licence held, including a licence endorsed under section 20 of the Act.
- (2) A person is being investigated for a fisheries offence if:
 - (a) the PZJA is investigating whether the person has committed a fisheries offence; or
 - (b) a law enforcement agency is investigating whether the person has committed a fisheries offence; or
 - (c) the person has been charged with a fisheries offence.

1.5 Area of the fishery

- (1) The area of the fishery is the area described in Schedule 2 of the *Torres Strait Fisheries Regulations 1985*.
- (2) The position of geographical coordinate in the description of the area of the fishery and areas excluded from the fishery is to be determined by reference to the Australian Geodetic Datum 1966 (AGD66).
- (3) For convenience in the use of navigational aids, the area of the fishery is described in Schedule 1 by reference to the Geocentric Datum of Australia 1996 (GDA96).
- (4) Any inconsistency in the descriptions of the area of the fishery is to be determined by reference to the Australian Geodetic Datum 1966 (AGD1966).

1.6 Objectives

In addition to the objectives in the Act, the objectives of this Plan are as follows:

- Objective 1: To acknowledge and protect the traditional way of life and livelihood of Traditional Inhabitants, including their rights in relation to traditional fishing for finfish.
- Objective 2: To ensure that harvest levels are at, or below, levels that maintain biologically viable stocks of target and non-target species.
- Objective 3: To provide for the use and conservation of Torres Strait finfish resources in a way that minimises impact on the marine environment.
- Objective 4: To optimise economic viability of the fishery.
- Objective 5: To provide for optimal utilisation, cooperative management, and for catch sharing to occur with PNG.

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1.7 Measures and performance criteria for the objectives

- (1) The measures by which the objectives of this Plan are to be attained, and the performance criteria against which, and time frames within which, the measures taken are to be assessed, are as follows:

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Objective 1. To acknowledge and protect the traditional way of life and livelihood of Traditional Inhabitants, including their rights in relation to traditional fishing for finfish.

Strategies	Performance Criteria	Timeframe
Facilitate implementation of management arrangements on the taking, processing and carrying of finfish for commercial purposes	Total commercial catch of target and non-target species or species groups is at or below agreed annual catch limits. PZJA agencies to monitor reported catch of charter boat operations and recreational fishing if data is available from external sources (Noting that the Torres Strait Fisheries Act does not have any jurisdiction over recreational or charter fishing in Torres Strait).	Yearly 2-3 years

Objective 2 Harvest levels are at, or below levels that maintain biologically viable stocks of target and non-target species.

Strategies	Performance Criteria	Timeframe
Facilitate implementation of management arrangements on the taking, processing and carrying of finfish (gear, size and area restrictions, take and carry limits)	Total catch of target species or species groups is at or below agreed annual catch limits.	Yearly
Implement Quota Management System (TAC/TAE) if determined by the PZJA	Total catch of target and non-target species or species groups is at or below agreed annual catch limits.	Yearly (if required)

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Objective 3 To provide for the use and conservation of Torres Strait Finfish resources in a way that minimises impact on the marine environment.

Strategies	Performance Criteria	Timeframe
Facilitate implementation of management arrangements on the taking, processing and carrying of finfish for commercial purposes (gear restrictions, area and seasonal closures).	The number of commercial fishery interactions with listed marine and threatened species. Total catch of target and non-target species or species group.	Yearly
Implement Quota Management System (TAC/TAE) if determined by the PZJA.	Total catch of target and non-target species or species groups is at or below agreed annual catch limits.	Yearly (if required)

Objective 4 To optimise economic viability of the fishery.

Strategies	Performance Criteria	Timeframe
Provide for the transfer of licenses.	Total number of licenses transferred.	Yearly
Facilitate effective fisheries management arrangements that allow for efficient fishing operations.	Total number of used and unused Units of Fishing Capacity.	Yearly (if required)
Provide for Units of Fishing Capacity (if Quota Management System is implemented).	The number of transfers of Units of Fishing Capacity per fishing season (if Quota Management System is implemented).	
Allow for non-Traditional Inhabitant fishers to hold a temporary licence (sunset licence) and fish in the fishery.	Total weight of quota species issued to temporary licence holders per fishing season. Numbers of sunset licences transferred to non-Traditional Inhabitants.	Yearly

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Objective 5 To provide for optimal utilisation, cooperative management, and for catch sharing to occur with PNG.

Strategies	Performance Criteria	Timeframe
Allow for PNG licence holders to be issued cross endorsement for the fishery.	Cross endorsements issued to PNG, if requested, in a timely manner.	Yearly
Allow for the conditions on PNG cross endorsements to be complementary to TSFF licence holders.	Conditions on Cross endorsements issued are consistent with Treaty obligations.	

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1.8 Reference points

- (1) The PZJA may determine reference points for the fishery that are appropriate to uphold the objectives of this Plan.
- (2) The PZJA will review the reference points as necessary to ensure that they remain appropriate.
- (3) The PZJA must:
 - (a) monitor catch information on finfish and by-product species; and
 - (b) if concerns about a species are identified, determine reference points that are appropriate for maintaining ecologically viable stocks of that species and an ecologically sustainable fishery.

1.9 Persons to whom this Plan applies

- (1) This plan applies to a person who is engaged in, or intends to engage in, any of the following in the area of the fishery:
 - (a) commercial fishing for finfish; or
 - (b) carrying, or processing and carrying, commercially caught finfish ; or
 - (c) fishing under a scientific or developmental permit.

1.10 Persons to whom this Plan does not apply

- (1) This plan does not apply to a person who:
 - (a) is engaged in recreational fishing (whether from a charter boat or otherwise); or
 - (b) is engaged in traditional fishing.

NOTE: Traditional fishers are still subject to instruments made under section 16 of the Act.

Part 2 Fishing in the Fishery

2.1 Who may fish in the fishery

- (1) A person may fish commercially for finfish in the area of the fishery only if the person:
 - (a) holds, or is acting on behalf of a person who holds:
 - (i) a TSFF boat licence, a TSFF non-boat fishing licence, or a TSFF TPC licence that has a mackerel or reef line entry; or
 - (ii) a treaty endorsement; and
 - (b) is fishing as authorised by the licence.
- (2) A person may take fish in the fishery for developmental purposes only if the person:
 - (a) holds a developmental permit; and
 - (b) holds a TSFF boat licence or TSFF TPC licence and is fishing from a boat nominated to that licence; or
 - (c) holds a TSFF non-boat licence.
- (3) A person may take fish in the fishery for scientific purposes only if the person holds a

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scientific permit.

- (4) If the PZJA has determined a TAC or TAE for the fishery, a person who fishes commercially must also hold unused units for the fishery, unless the TAC or TAE is a competitive TAC or competitive TAE.
- (5) If the PZJA has determined a competitive TAC or TAE for the fishery or part of the fishery, a person who fishes commercially must:
 - (a) hold unused units for the fishery; or
 - (b) be a member of a group to whom the competitive TAC or TAE has been allocated.
- (6) If a competitive TAC has been determined, the quantity of fish taken must not exceed the TAC.
- (7) If a competitive TAE has been determined, the amount of effort expended must not exceed the TAE.
- (8) If a person uses part of a unit, the person is taken to have used a whole unit.

2.2 What fish can be taken

- (1) If a TSFF boat licence has a reef line entry, the boat identified in the licence may take reef fish.
- (2) If a TSFF boat licence has a mackerel entry, the boat identified in the licence may take mackerel.
- (3) If a TSFF non-boat licence has a reef line entry, the holder of the licence may take reef fish.
- (4) If a TSFF non-boat licence has a mackerel entry, the holder of the licence may take mackerel.
- (5) This section applies subject to any determination the PZJA makes under section 16 of the Act.

2.3 Prohibited fish species

- (1) As set out in section 16 of the Act, the PZJA may, from time to time, prohibit the taking of fish species in the fishery.
- (2) The PZJA will publish the instrument on the PZJA website.
- (3) Fishers must not take species listed as prohibited species in instruments under section 16 of the Act.

2.4 Fish restricted by size

- (1) As set out in section 16 of the Act, the PZJA may prohibit the taking of finfish that are:
 - (a) greater than the maximum size for that finfish in the fishery; or
 - (b) less than the minimum size for that finfish in the fishery.
- (2) The PZJA will publish the instrument on the PZJA website.
- (3) Fishers must not take finfish bigger than the maximum size, or smaller than the minimum size, fixed by the PZJA.

2.5 Fishing methods

- (1) The rules that apply to fishing methods and the catch or incidental capture of by-catch and

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by-product species are the rules set out in instruments made under section 16 of the Act that apply to the fishery.

- (2) The PZJA will publish the instruments on the PZJA website.

2.6 Fishing season

- (1) Subject to subsection (2), the fishing season is the period from 1 July in a year to 30 June in the following year (the usual period).
- (2) The PZJA may determine that the fishing season is to be a period other than the usual period.
- (3) A determination under subsection (2) must:
 - (a) be made at least 2 weeks before the start of the fishing season in question; and
 - (b) be published as soon as practicable on the PZJA website; and
 - (c) if practicable, notified to all holders of TSFF licences.

2.7 Prohibiting fishing

- (1) As set out in section 16 of the Act, the PZJA may, before the start of a fishing season, by determination prohibit fishing in the fishery.
- (2) The PZJA may by emergency determination prohibit fishing in the fishery after the start of a fishing season if it is satisfied that:
 - (a) there exists a significant threat to the fishery's resources or to a fish or fish habitat; and
 - (b) urgent action needs to be taken to deal with the threat.
- (3) The PZJA:
 - (a) will consult the TSFMAC before making a determination under subsection (1); and
 - (b) if practicable, consult the TSFMAC before making an emergency determination under subsection (2).
- (4) The PZJA will revoke the emergency determination as soon as practicable after it is satisfied that the emergency no longer exists.

2.8 Consultation

- (1) As well as the consultation under section 2.7, the PZJA may consult the TSFMAC and other interested persons before making a decision under other provisions of this Part.
- (2) The PZJA will publish details of the decision on the PZJA website.

Part 3 Units of Fishing Capacity

3.1 Determination of total allowable catch (TAC)

- (1) The PZJA may determine a total allowable commercial catch (TAC) for a finfish species for the fishery.
- (2) The determination of the TAC may be for:
 - (a) a season, or several consecutive seasons; and
 - (b) the area of the fishery or part of the area of the fishery.
- (3) In determining the TAC, the PZJA may have regard to the amount of finfish taken in the

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fishery by non-commercial fishing.

- (4) If the PZJA determines a TAC for a species, the total amount of that species taken in that season must not exceed the TAC.
- (5) Before determining the TAC, the PZJA:
 - (a) will consult the TSFMAC; and
 - (b) may consult other interested persons.
- (6) A determination of TAC must specify:
 - (a) the TAC, expressed in whole weight or otherwise as specified in the determination; and
 - (b) the period for which the TAC applies; and
 - (c) if the TAC applies only to a part of the area of the fishery – that part.

3.2 Competitive TAC

- (1) The PZJA may determine that a TAC or part of a TAC is to be a competitive TAC.
- (2) Subsections 3.1(2) to (6) apply to the determination of a competitive TAC.
- (3) A competitive TAC is to be allocated to a group.
- (4) If a competitive TAC is allocated to a group:
 - (a) the units of fishing capacity are held by the group; and
 - (b) the persons represented by the group who are entitled under section 2.1 to take fish in the fishery may fish in the fishery; and
 - (c) the persons represented by the group may fish until the competitive TAC allocated to the group has been reached.
- (5) The PZJA will determine:
 - (a) how a competitive TAC is to be allocated; and
 - (b) how the persons represented by the group are to be identified; and
 - (c) the rules for fishing under a competitive TAC.

3.3 Determination of total allowable effort (TAE)

- (1) The PZJA may determine the total allowable effort (TAE) for a finfish species for the fishery.
- (2) The TAE may be for:
 - (a) a season, or several consecutive seasons; and
 - (b) the area of the fishery or part of the area of the fishery.

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- (3) In determining the TAE, the PZJA may have regard to the amount of finfish taken in the fishery by non-commercial fishing.
- (4) If the PZJA determines a TAE for a species, the total amount of effort expended in that season must not exceed the TAE.
- (5) Before determining the TAE, the PZJA:
 - (a) will consult the TSFMAC; and
 - (b) may consult other interested persons.
- (6) A determination of TAE must specify:
 - (a) the TAE, expressed in terms of whole fishing days; and
 - (b) the period for which the TAE applies; and
 - (c) if the TAE applies only to a part of the area of the fishery – that part.

3.4 Competitive TAE

- (1) The PZJA may determine that a TAE or part of a TAE is to be a competitive TAE.
- (2) Subsections 3.3 (2)-(6) apply to the determination of a competitive TAE.
- (3) A competitive TAE is to be allocated to a group.
- (4) If a competitive TAE is allocated to a group:
 - (a) the units of fishing capacity are held by the group; and
 - (b) the persons represented by the group who are entitled under section 2.1 to fish in the fishery may fish in the fishery; and
 - (c) the persons represented by the group may fish until the competitive TAE allocated to the group has been reached.
- (5) The PZJA will determine:
 - (a) how a competitive TAC is to be allocated; and
 - (b) how the persons represented by the group are to be identified; and
 - (c) the rules for fishing under a competitive TAC.

3.5 Change of TAC and TAE

- (1) The PZJA may by determination increase the TAC or TAE if:
 - (a) there is evidence that there will be no substantial increase in the impact of fishing on the fishery; and
 - (b) the increase would be consistent with the objectives of the Act and this Plan.

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- (2) The PZJA may by determination reduce the TAC or TAE before the fishing season begins if it is satisfied that:
 - (a) there exists a threat to the fishery's resources or to a fish or fish habitat; and
 - (b) urgent action needs to be taken to deal with the threat.
- (3) In changing the TAC or TAE, the PZJA may have regard to the amount of finfish taken in the fishery by non-commercial fishing.
- (4) Before changing the TAC or TAE, the PZJA:
 - (a) will consult the TSFMAC; and
 - (b) may consult other interested persons.
- (5) A determination increasing or reducing the TAC or TAE must:
 - (a) set out the new TAC or TAE, and the period for which it is to be in force; and
 - (b) set out the reasons for the change

3.6 Publication of TAC and TAE

- (1) A determination under section 3.1, 3.2, 3.3, 3.4 or 3.5 must be published as soon as practicable on the PZJA website and, if practicable, notified to all holders of TSFF licences and endorsements.

3.7 Allocation of Units of Fishing Capacity

- (1) The PZJA must determine a maximum number of units of fishing capacity for the fishery before it first determines a TAC or TAE for the fishery.
- (2) The PZJA may:
 - (a) allocate units to:
 - (i) individual traditional inhabitants who hold TSFF boat licences or TSFF non-boat licences; or
 - (ii) groups formally representing traditional inhabitants; and
 - (b) hold a number of units on behalf of Treaty endorsement holders.
- (3) The PZJA may allocate further units at any time.
- (4) Before allocating units, the PZJA will consult the TSFMAC on appropriate allocation processes to determine an appropriate allocation formula.
- (5) A unit cannot permanently be held by a person who is not a traditional inhabitant or a group.
- (6) The number of units held on behalf of Treaty endorsement holders will be determined as set out in article 23 of the Treaty.

3.8 Certificate of allocation of Units of Fishing Capacity

- (1) After the PZJA allocates units to a person or group, the PZJA will give the holder a certificate setting out the person's name and the number of units the person holds.
- (2) If a certificate issued by the PZJA for an allocation is lost, stolen or destroyed or units have been transferred, the PZJA may issue a replacement certificate.

3.9 Value of Units of Fishing Capacity

- (1) If the PZJA has determined a TAC for the fishery, the value of a unit for the period for which the TAC applies will be expressed in kilogram amounts of whole weight, using the

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following formula:

unit value = TAC divided by the sum of all units.

- (2) If the PZJA has determined a TAE for the fishery, the value of a unit of fishing capacity for the period for which the TAE applies will be expressed in terms of whole fishing days, using the following formula:

unit value = TAE divided by the sum of all units.

3.10 Transfer of Units of Fishing Capacity

- (1) A person or a group holding units of fishing capacity may transfer the units permanently to any other traditional inhabitant or group.
- (2) A person or a group holding unused units of fishing capacity may temporarily transfer units to a person who is not a traditional inhabitant if:
- (a) the person holds a sunset licence; and
 - (b) the temporary transfer is for a period that is not longer than the term of the sunset licence.
- (3) The transferor and transferee must give the PZJA written notice of the transfer.
- (4) The PZJA must register the transfer of units unless:
- (a) the transferor or transferee:
 - (i) is being investigated for a fisheries offence; or
 - (i) has been convicted of a fisheries offence; or
 - (b) any levy due and payable by the transferor or transferee has not been paid; or
 - (c) a circumstance set out in a condition of the relevant licence exists.
- (5) The PZJA will issue a new certificate of allocation of the units to the transferee.
- (6) A transfer is of no effect until it is registered.

Part 4 Licences

4.1 Grant of licences and endorsements

- (1) As set out in section 19 of the Act, licences may be granted for commercial fishing from a boat in the fishery and for taking, carrying, or for carrying and processing, product in the fishery.
- (2) As set out in section 20 of the Act, endorsements may be granted for PNG boats.

4.2 TSFF licences

- (1) A TSFF boat licence granted under section 19(2) of the Act allows the boat nominated to the licence to be used for commercial fishing for finfish in the fishery in accordance with this Plan.
- (2) A TSFF TPC licence issued under section 19(3) of the Act allows the boat nominated to the licence to be used for carrying, or processing and carrying, finfish that have been taken with another boat in accordance with this Plan.
- (3) A TSFF licence remains in force for the period specified in the licence.

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- (4) A TSFF licence may only be granted to:
 - (a) a traditional inhabitant; or
 - (b) a group that represents traditional inhabitants.

4.3 Sunset licences

- (1) A sunset licence may only be granted to a group.
- (2) A sunset licence is granted for the purpose of the group temporarily transferring the licence to a group or to an individual (whether a traditional inhabitant or not).
- (3) A sunset licence allows the holder to fish commercially for finfish in the fishery during the period of the licence, using the boat nominated to the licence.

4.4 Treaty endorsements

- (1) As set out in section 20 of the Act, a treaty endorsement may be granted for commercial fishing for finfish in the fishery in accordance with this Plan.
- (2) A treaty endorsement allows the boat nominated in the endorsement to be used:
 - (a) for commercial fishing for finfish in the fishery; or
 - (b) for carrying, or processing and carrying, finfish taken in the fishery by another treaty endorsed boat.
- (3) A treaty endorsement may only be granted to the holder of a PNG licence that allows the boat identified in the licence to be used for finfish fishing.

4.5 Nomination of a boat

- (1) The holder of a TSFF boat licence, a TSFF TPC licence or a sunset licence may nominate a boat for the licence.
- (2) The boat may be a primary boat, a tender or a dinghy.
- (3) As set out in section 25A of the Act, the holder of a TSFF boat licence, a TSFF TPC licence or a sunset licence may apply to the PZJA in the approved form for a different boat to be the nominated boat for the licence.
- (4) The PZJA must:
 - (a) for each nominated boat, enter in the Register the details required by the Regulations to be shown in the Register; and
 - (b) give the licence holder an extract from the Register that:
 - (i) shows the name and distinguishing number for the boat nominated for the licence; and
 - (ii) states the conditions to which the licence is subject; and
 - (iii) is signed by the PZJA.
- (5) The PZJA must not register a boat as a nominated boat for a TSFF boat licence, a TSFF TPC licence or a sunset licence if the boat is a nominated boat for another TSFF boat licence, a TSFF TPC licence or a sunset licence.

4.6 Entries for the finfish fishery (reef line and mackerel)

- (1) Under section 21 of the Act, the PZJA may make entries in licences and endorsements to extend the licence or endorsement to particular fish.
- (2) The PZJA may limit the number of mackerel or reef line entries for allocation to TSFF licences and treaty endorsements in the fishery.
- (3) The PZJA will consult with TSFMAC before making a decision limiting the number of

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mackerel or reef line entries.

4.7 Transfer of licences

- (1) The holder of a TSFF licence, other than a TSFF master fisherman's licence, may transfer the licence.
- (2) A TSFF licence may only be transferred to a traditional inhabitant or a group.
- (3) A sunset licence:
 - (a) may only be transferred temporarily; and
 - (b) if transferred, may not be again transferred.
- (4) If the transferor does not hold any other licences for the fishery, he or she must also transfer all of his or her units before or at the same time the licence is transferred.
- (5) The transferor and transferee must apply to the PZJA using the approved form for the transfer to be registered, and pay the prescribed fee.
- (6) The PZJA must register the transfer of a licence unless:
 - (a) the licence has been suspended; or
 - (b) the transferor or transferee:
 - (i) is being investigated for a fisheries offence; or
 - (ii) has been convicted of a fisheries offence; or
 - (c) levy due and payable by the transferor or transferee has not been paid; or
 - (d) a circumstance set out in a condition of the licence exists.

4.8 Primary and tender boats

- (1) A licence holder is entitled to take, process and transfer product on and between all primary and tender boats nominated for the licence.
- (2) A tender boat can only take fish when operating from a primary boat.
- (3) Each primary boat will be marked with a distinguishing number followed by the letter 'T', as required by the Regulations.
- (4) Each tender boat will be marked:
 - (a) with the distinguishing number of its primary boat, followed by a "T", as required by the Regulations; and
 - (b) the unique tender number (for example, FVXX-T (1 or 2 or 3)).
- (4) The PZJA may determine a maximum number of tenders for each licence.
- (5) The PZJA may determine the maximum number of tenders for the whole fishery.
- (6) Before determining the number of tenders, the PZJA must consult the TSFMAC.

4.9 Scientific or developmental Permits

- (1) As set out in section 12 of the Act, permits for scientific or developmental purposes may be granted for the area of the fishery or part of the fishery.
- (2) A developmental permit will only be granted to the holder of a TSFF boat licence, a TSFF non-boat licence or a TSFF TPC licence.
- (3) The PZJA may determine guidelines for:
 - (a) the grant of and revocation of scientific and developmental permits; and
 - (b) the imposition, variation and revocation of conditions of those permits.

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4.10 Other PZJA powers under the Act

- (1) Nothing in this Part is to be taken as limiting the power of the PZJA to grant licenses under section 19 of the Act.

Part 5 Licence and endorsement conditions

5.1 Licence and endorsement conditions - general

- (1) It is a condition of a TSFF licence and an endorsement that the holder must:
 - (a) comply with:
 - (i) this Plan; and
 - (ii) the Regulations that apply to the fishery; and
 - (iii) all applicable provisions of the Act; and
 - (iv) all determinations under Part 3; and
 - (v) any conditions imposed on the licence or endorsement; and
 - (vi) all instruments made under section 16 of the Act that apply to the fishery;
 - (b) ensure that each person acting under the holder's directions complies with this Plan and the legislation and other matters mentioned in paragraph (a); and
 - (c) keep a log book, as set out in section 5.2; and
 - (d) if an observer program is implemented in the fishery, carry an observer, and the observer's safety and monitoring equipment, as set out in section 5.5, if the PZJA asks the holder to do so; and
 - (e) carry a vessel monitoring system, as required by section 5.6; and
 - (f) minimise the impact of fishing operations on the marine environment, as set out in section 5.7; and
 - (g) give the PZJA reasonable access to biological, economic or technical information, or biological samples that are available to the holder, if the PZJA asks the holder to do so; and
 - (h) carry on board the primary boat or dinghy the TSFF licence or endorsement that refers to the boat; and
 - (i) allow a primary boat, a tender boat or a dinghy to be independently measured, as required by the PZJA.
- (2) It is a condition of a TSFF boat licence and a TSFF non-boat licence that the holder must not sell, or otherwise dispose of (other than solely for transportation or storage purposes preceding delivery to the holder of a fish receiver licence) finfish that the holder takes except to the holder of a fish receiver licence or a TSFF TPC licence.

NOTE: It is an offence under section 44 of the *Torres Strait Fisheries Act 1984* to contravene an instrument under section 16 of the Act, and an offence under section 45 of the Act to contravene a condition of a licence.

5.2 Licence and endorsement conditions – Logbooks

- (1) The PZJA may determine a form of Logbook for the fishery, as set out in section 14 of the Act.
- (2) If the PZJA determines a form of Logbook, it is a condition of a TSFF boat licence, TSFF non-boat licence or Treaty endorsement that the holder must ensure that the information required by the Logbook about fish taken and effort expended in the fishery is accurately

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and fully recorded in the Logbook, in accordance with the instructions for completing the Logbook.

5.3 Licence and endorsement conditions - quota monitoring system

- (1) If the PZJA determines a quota for the fishery by determining a TAC or TAE for the fishery, it is a condition of a TSFF licence or endorsement that holders must comply with:
 - (a) all requirements imposed by the PZJA, and instructions from the PZJA, about the quota monitoring system; and
 - (b) notices and other reporting requirements of the PZJA about the quota monitoring system.

NOTE: These requirements will be set out in other instruments, such as determinations under s.16 of the Act or licence conditions.

5.4 Licence conditions – other obligations of licence and endorsement holders

- (1) It is a condition of a TSFF boat licence, TSFF non-boat licence and treaty endorsement that the holder:
 - (a) fishes only for finfish in the fishery; and
 - (b) does not fish for fish species that are prohibited by instrument under section 16 of the Act; and
 - (c) fishes for finfish in the fishery only during the fishing season; and
 - (d) does not fish in the fishery when a determination under section 2.7 is in force.
- (2) It is a condition of a TSFF TPC licence and treaty endorsement that the holder does not carry, or process and carry, fish species that are prohibited by instrument under section 16 of the Act.

5.5 Licence and endorsement conditions – observers

- (1) If an observer program is in place in the fishery, it is a condition of a licence and endorsement that the holder complies with the requirements of this section.
- (2) If the PZJA directs the holder of a TSFF boat licence or endorsement to carry an observer on a boat, the holder must ensure that:
 - (a) an observer; and
 - (b) the observer's safety equipment; and
 - (c) the observer's monitoring equipment;are on board the boat when the boat commences the trip to which the direction applies.
- (3) The holder must ensure that the observer is provided with adequate food and accommodation while the observer is on board the boat during a trip.
- (4) The holder must ensure that the observer is carried safely on the boat.
- (5) The holder must ensure that observer:
 - (a) is given assistance by the holder, the master of the boat and crew members of the boat; and
 - (b) is given access to all parts of the boat;to the extent reasonably necessary to permit the performance of the functions of the observer.
- (6) The holder must not interfere with, or obstruct, the observer in the course of collecting data or samples.

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- (7) The holder must ensure that:
- (a) the master of the boat; and
 - (b) crew members of the boat;
- do not interfere with, or obstruct, the observer in the course of collecting data or samples.

5.6 Licence and endorsement conditions - vessel monitoring system (VMS)

- (1) If a vessel monitoring system is in place in the fishery, it is a condition of a licence and endorsement that the holder complies with the requirements of this section.
- (2) The holder of a TSFF boat licence or endorsement must ensure that the VMS on a boat is operational at all times.
- (3) If the VMS stops operating, the holder must ensure that the PZJA is informed as soon as practicable after the holder becomes aware that the VMS has stopped operating.

5.7 Licence and endorsement conditions - obligations relating to interactions with certain species and communities

- (1) The holder of a licence or treaty endorsement within the fishery must take all reasonable steps to ensure that the impact of fishing operations on the marine environment is kept to a minimum.
- (2) In particular, the holder must take all reasonable steps to:
- (a) avoid interaction with the following:
 - (i) cetaceans;
 - (ii) marine species listed for section 248 of the EPBC Act;
 - (iii) migratory species listed for section 209 of the EPBC Act;
 - (iv) threatened species listed for section 178 of the EPBC Act; and
 - (b) ensure that anything that may harm the marine environment is not disposed of at sea.
- (3) If the fishing activities undertaken on the boat result in an interaction with a species or community mentioned in subsection (2), the licence or endorsement holder must:
- (a) record details of the interaction in a logbook kept for that purpose if they are required to provide information under section 14 of the Act; 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 the data, or make the observations, required 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:
 - (i) discharge its carcass from the boat in a way that does not attract birds or mammals to the boat; or
 - (ii) if directed by the PZJA to retain carcasses for scientific purposes, retain the carcass and deal with it as the PZJA directs; 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 any requirement imposed by regulations made for the purposes of this section.

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5.8 Catch of by-product

- (1) It is a condition of a TSFF licence or endorsement that:
 - (a) as set out in instruments under section 16 of the Act, the holder of the licence or endorsement does not possess more than the maximum amount of a finfish species for which the licence does not have an entry; and
 - (b) if a TAC is determined for a finfish species, the holder of the licence or endorsement who does not hold unused units for that species does not retain any of that species greater than the recreational bag limits provided for in the Queensland Coral Reef Finfish Management Plan and the Queensland Fisheries Regulations.

5.9 Consultation

- (1) The PZJA may consult the TSFMAC and other interested persons before making a decision under this Part.
- (2) The PZJA will publish details of the decision on the PZJA website.

Part 6 Miscellaneous

6.1 Boat lengths

- (1) As set out in instruments under section 16 of the Act, the PZJA may determine lengths for boats fishing in the fishery.
- (2) Before making a determination under this section, the PZJA may consult TSFMAC.

6.2 Register

- (1) As well as the matters mentioned in section 10 of the Act, the Register must show particulars of:
 - (a) transfers or temporary transfers of TSFF licences, sunset licences and units of fishing capacity; and
 - (b) boats nominated under section 4.5; and
 - (c) any other information that the PZJA determines.

6.3 Reconsideration of decisions

- (1) In this section, *decision* means a decision of the PZJA:
 - (a) allocating units of fishing capacity under section 3.7; or
 - (b) refusing to register a transfer under section 4.7; or
 - (c) nominating a boat under section 4.5.
- (2) A person affected by a decision may in writing request the PZJA to reconsider the decision.
- (3) The person must make the request within 28 days of the date of the decision.
- (4) The PZJA must reconsider the decision within 60 days of receiving the request for review, and must:
 - (a) confirm the decision; or
 - (b) revoke the decision and make another decision in its place.
- (5) The PZJA must notify the person in writing of its decision under subsection (4).

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6.4 Shark finning

- (1) It is prohibited in the area of the fishery to remove the fins from a shark and discard the torso into the sea.
- (2) It is prohibited in the area of the fishery to remove the liver from a shark and discard the shark carcass into the sea.

6.5 Transitional

- (1) A TSFF licence in force immediately before the commencement date remains in force until its expiry date.
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SCHEDULE 1

Section 1.4

Area of the fishery

NOTE: The area of the Torres Strait finfish¹ and mackerel Fishery is as currently described in Schedule 2 of the *Torres Strait Fisheries Management Regulations 1985* and is included here for convenience:

The area of the finfish fishery is the area consisting of:

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

The area of the mackerel fishery is the area consisting of:

- (a) the area of waters in Protected Zone to the south of the Fisheries Jurisdiction Line;
- (b) 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:
 - north along the meridian of longitude 141°20'00" east to its intersection with the parallel of latitude 10°28'00" south;
 - east along that parallel to its intersection with the meridian of longitude 144°00'00" east;
 - south along that meridian to its intersection with the parallel of latitude 10°41'00" south;
 - west along that parallel to its intersection with the meridian of longitude 142°31'49" east;
 - south along that meridian to its northernmost intersection with the coastline of Cape York Peninsula at low water;
 - generally south-westerly along the western coastline of Cape York Peninsula, that

¹ In the Torres Strait Fisheries Regulations finfish is the term used for what we call in these instructions the "reef line" fishery. The area for the finfish fishery and the mackerel fishery are the same in the Regulations.

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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;

- west along that parallel to the point where the line began; and
- (c) the territorial sea of Australia north of the Fisheries Jurisdiction Line.

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SCHEDULE 2

Section 1.4

Area of the fishery expressed using coordinates based on GDA94

NOTE: For ease of use of navigational aids, the description of the fishery is also expressed in this Schedule by reference to WGS84. Any discrepancy between this description and the description in Schedule 1 is to be resolved by reference to Schedule 1.

REFERENCE	LATITUDE	LONGITUDE	NOTES
1	10° 47' 54.68" South	141° 20' 03.99" East	
B	10° 27' 54.69" South	141° 20' 03.99" East	This is point (b) of the Protected Zone under the Torres Strait Treaty
2	10° 27' 54.66" South	144° 00' 03.89" East	
3	10° 40' 54.65" South	144° 00' 03.89" East	
4	10° 40' 54.67" South	142° 31' 52.94" East	
5	10° 41' 14.67" South	142° 31' 52.94" East	See note 2.
6	10° 47' 54.67" South	142° 24' 13.95" East	See note 2.

Note

- Coordinates expressed in terms of the Geodetic Datum of Australia 1994 (GDA94) have been transformed from the Australian Geodetic Datum 1966 (AGD66) using the National 3 dimensional similarity transformation².

AGD66 to GDA94 parameters:

dx: -117.808 m
 dy: -51.536 m
 dz: 137.784 m
 k: -0.29 ppm
 rx: -0.303 Arc Seconds
 ry: -0.446 Arc Seconds
 rz: -0.234 Arc Seconds

² Geodetic Datum of Australia Technical Manual, Version 2.3(1), ISBN 0-9579951-0-5, published by the Intergovernmental Committee on Surveying & Mapping (ICSM)

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2. For the purposes of plotting the points defining this Fishery in a geographic information system (GIS), an interpretation of where the specific parallel or meridian crosses the coastline is based on the visible coastline from an orthorectified satellite image.
3. For all practical purposes, coordinates expressed in terms of GDA94 are deemed equivalent to coordinates expressed in terms of WGS84.

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