

Ref: NTN2020 - 07

14 August 2020

Dear Sir/Madam,

Comment on a proposed management action in line with subsection 24HA(7) of the Commonwealth *Native Title Act 1993*

On behalf of the Protected Zone Joint Authority (PZJA) Secretariat, I am writing to you regarding the proposed management action to vary the conditions on Torres Strait Beche-de-mer Fishery Traditional Inhabitant Boat licences issued under section 19 of the *Torres Strait Fisheries Act 1984* to include new total allowable catch limits for black teatfish and daily reporting requirements as per the Beche-de-mer Harvest Strategy. Further details of the proposed action can be found in **Attachments A-C - Class Notification under the *Commonwealth Native Title Act 1993***.

Under subsection 24HA(7), the PZJA must give the recipient of this notice an opportunity to comment on these proposed actions within a period defined by this notice. Accordingly, please provide any comment on the proposed management actions by **close of business 25 August 2020**, in writing, to the addressee below:

Australian Fisheries Management Authority
Att: Danait Ghebrezgabhier
PO Box 376
Thursday Island
Queensland 4875

Email: FisheriesTI@afma.gov.au

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

If you have any problems meeting the timeframe given to comment or have any additional questions, please call me on 07 4069 1990 or email FisheriesTI@afma.gov.au.

Yours sincerely



Danait Ghebrezgabhier
Senior Management Officer, Torres Strait Fisheries
Australian Fisheries Management Authority

Attachments

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

Class Notification under the Commonwealth *Native Title Act 1993*

Variation of licence conditions on Torres Strait Beche-de-mer Fishery Traditional Inhabitant Boat Licence to implement a new total allowable catch limit for Black Teatfish and daily landing to a fish receiver.

Date of Issue: 14 August 2020

SECTION OF NTA	Section 24HA (7) of the Commonwealth <i>Native Title Act 1993</i>
DEPARTMENT/AGENCY	Australian Fisheries Management Authority (AFMA) on behalf of the Torres Strait Protected Zone Joint Authority (PZJA)
CONTACT NAME	Danait Ghebrezgabhier
E-MAIL	FisheriesTI@afma.gov.au
TELEPHONE NO.	(07) 4069 1990
REFERENCE NO.	NTN2020-07 – Variation of licence conditions on Torres Strait Beche-de-mer Fishery Traditional Inhabitant Boat Licence to implement a new total allowable catch limit for Black Teatfish and daily landing to a fish receiver

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

TYPE OF APPROVAL	Variation of BDM Fishery Traditional Inhabitant Boat (TIB) licence conditions under section 22 of the Commonwealth Torres Strait Fisheries Act 1984 (the Act)
NUMBER OF APPROVALS	Licence condition variation for all BDM Fishery TIB licences
UNDER WHAT ACT	<i>Torres Strait Fisheries Act 1984</i> (The Act).

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

NATURE OF ACTIVITY	<p>Under subsection 22(1) of the Act a licence granted under section 19 is subject to conditions specified in the licence. Subsection 22(2) allows AFMA as the PZJA delegate to vary or revoke the conditions of the licence or specify further conditions to which the licence is subject to.</p> <p>The conditions that are the subject of this notification, limit the amount of black teatfish that can be taken by all licences to take BDM species in the area of waters of the BDM Fishery. Further they require commercial catch to be landed to fish receiver.</p> <p>Fishing for black teatfish is currently prohibited. Subject to PZJA approval, the proposed management action would vary BDM Fishery TIB licence conditions to allow a 20 tonne TAC for Black teatfish and require fishers to land catches of beche-de-mer daily to a licenced fish receiver.</p> <p>Further information on the proposed management action is provided in Attachment B.</p>
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The above activity will be located within:

LOCATION OF ACTIVITY	The proposed management action would apply to the area of the BDM Fishery. The extent of the BDM Fishery is described in Attachment A Item 1, Schedule 2 of the Torres Strait Fisheries Regulations 1985 (the Regulations). The Regulations can be
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	accessed online at: https://www.legislation.gov.au/Details/F2016C00633
MAPS/PLANS	Attachment C shows the area of the BDM Fishery, as described in Item 1, Schedule 2 of the Regulations.
NAME OF REGISTERED NATIVE TITLE CLAIMANT GROUP/S OR NAME OF REGISTERED NATIVE TITLE BODY CORPORATE	Malu Lamar (Torres Strait Islander) Corporation RNTBC Ipima Ikaya Aboriginal Corporation RNTBC Cape York Land Council Aboriginal Corporation Kaurareg People #1 Kaurareg People #2 North Eastern Peninsula Sea Claim Group The applicant for the Torres Strait Sea Claim (Part B)
NAME OF NATIVE TITLE REPRESENTATIVE BODY	Torres Strait Regional Authority Cape York Land Council

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

DURATION OF APPROVAL	It is expected that the trail re-opening will occur in 2021.
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You are invited to comment upon the class of proposed future acts outlined above by close of business 25 August 2020.

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

By mail addressed to:
Australian Fisheries Management Authority
Att: Danait Ghebrezgabhier
PO Box 376
Thursday Island, QLD, 4875

Or by email to: FisheriesTI@afma.gov.au

Background Information

What are the changes to Traditional Inhabitant Boat (TIB) licence conditions?

1. Under subsection 22(1) of the *Torres Strait Fisheries Act 1984* (the Act) a licence granted under section 19 is subject to conditions specified in the licence. Subsection 22(2) allows the Minister to vary or revoke a condition of the licence or specify further conditions to which the licence is subject to.
2. Fishing for black teatfish is currently prohibited. Subject to PZJA approval and in line with the Torres Strait Beche-de-mer Harvest Strategy (November 2019), a 20 tonne trial re-opening may occur. It is proposed that during the trial, fishers must land all catches of beche-de-mer daily to a licenced fish receiver. Fish receivers will then be required to report landed catches to AFMA daily.

Why are the licence conditions being changed?

3. Fishing for black teatfish has been closed since 2003 due to concerns of overfishing. The Fishery was reopened by the PZJA in 2014 and 2015 on a trial basis, however the TAC was exceeded on both occasions. The fishery was closed pending the development and implementation of cost-effective management tools to mitigate the risk of the TAC being exceeded, which has now happened, and includes:
 - a. The Torres Strait Fish Receiver System implemented on 1 December 2017, requiring the mandatory reporting of all commercial catch in Torres Strait Fisheries (except Torres Strait Prawn); and
 - b. The Torres Strait Beche-de-mer Fishery Harvest Strategy, November 2019 (the harvest strategy) implemented on 1 January 2020, providing a transparent and pre-agreed protocol for setting TACs and developing arrangements for opening a closed fishery (species).
4. In line with the harvest strategy, the PZJA Hand Collectables Working Group (HCWG) met on 21 February 2020 to consider very preliminary outcomes of the fishery independent sea cucumber dive stock survey in east Torres Strait and recommended a trial reopening of the fishery for black teatfish, subject to a 15 tonne TAC (to be fished competitively) and daily reporting to AFMA of landed catch. The HCWG noted that AFMA would enable landed catch records (Catch Disposal Records) to be submitted electronically (email, SMS, or fax) with hard copies still to be sent to AFMA, further information is available in the [HCWG meeting record on the PZJA website](#).
5. On 10 March 2020, [future act notice \(FAN\) NTN2020-01](#) was issued by AFMA to the relevant Native Title Bodies and Claimants, as per the National Native Title Tribunal register, for the licence condition variations for Traditional Inhabitant Boat Licence holders in the Torres Strait Beche-de-mer Fishery to implement a new total allowable catch limit for black teatfish and daily landing to a fish receiver. The consultation period for the FAN closed on 31 March 2020.
6. The PZJA's consideration in April 2020 of the HCWG's recommendation was delayed on TSRA's request to allow for a more complete CSIRO report on the stock status of black teatfish, and provide time for TSRA to consider options for filling the vacant position on the HCWG for a traditional inhabitant member for Maluialgal (inner western cluster).
7. Members of the HCWG met again on 7 August 2020 to reconsider their initial TAC recommendation in light of:
 - a. Preliminary outcomes of the fishery independent dive survey which included: i) recorded densities across locations and within habitats; ii) standing stock population estimates; iii) length distributions; and iv) a comparison of results with previous surveys; and

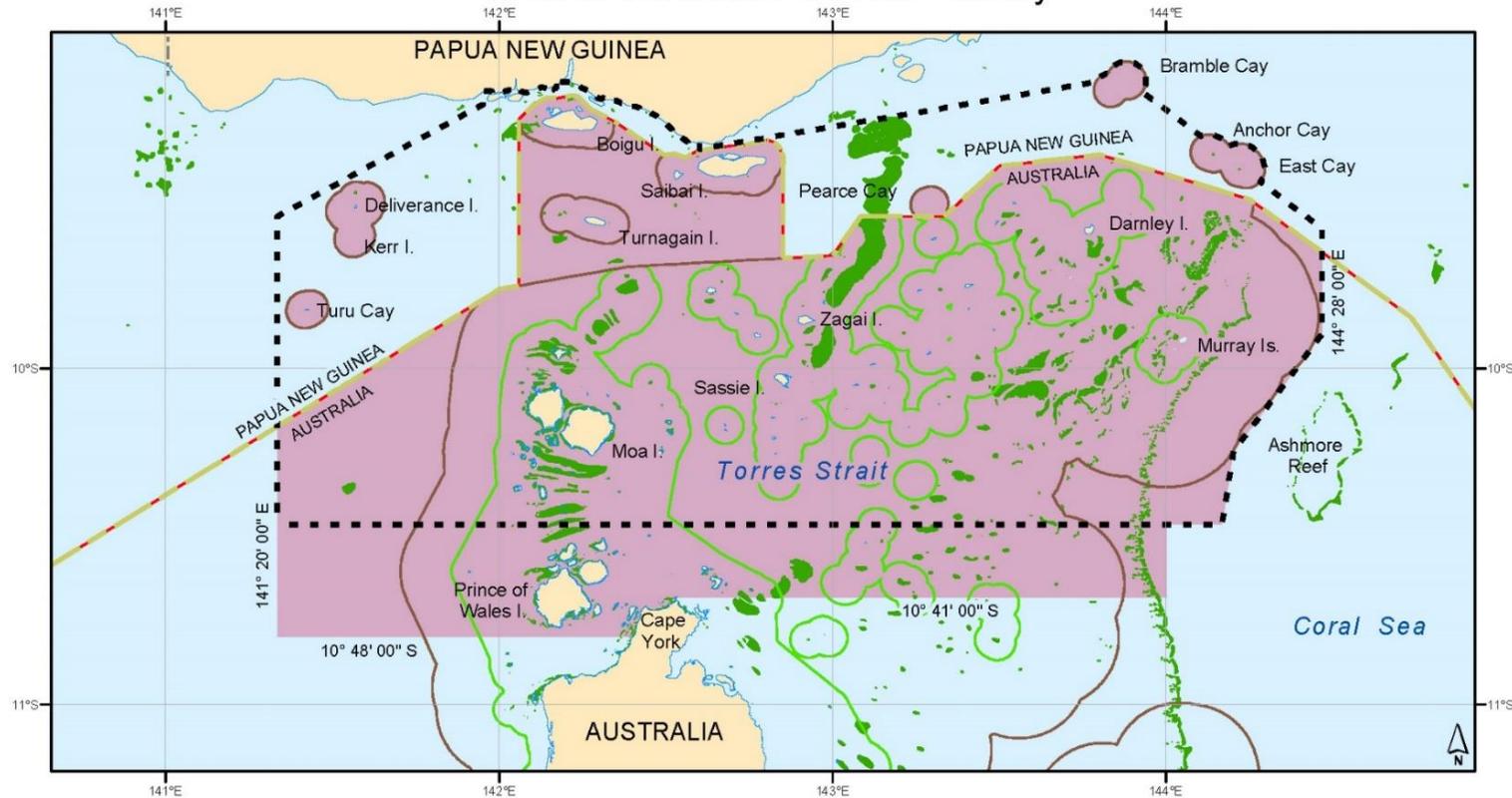
- b. Preliminary population modelling together with estimates of standing stock biomass above the legal size limit (generally known as the available biomass).
8. Due to unexpected changes in the availability of some traditional inhabitant members, the quorum requirements for the meeting were not met and recommendations on a re-opening TAC from individual HCWG members are summarised below:
 - a. The two traditional inhabitant members, AFMA and one scientific member (also a co-investigator on the current stock survey project), recommended a re-opening TAC of 20 tonnes. This recommendation was also supported by the TSRA Fisheries Portfolio Board member who is a Permanent Observer on the HCWG;
 - b. The TSRA member recommended a reopening TAC of 21 tonnes; and
 - c. A scientific member and the QDAF member recommended a reopening TAC of 15 tonnes.
9. AFMA recommends that the reopening TAC be set at 20 tonnes on the basis that the preliminary modelling work undertaken by CSIRO, although simple, found that across all model versions and sensitivity tests, 20 tonnes was shown to be sustainable and consistent with the Harvest Strategy requirement for the starting TAC to be demonstrably conservative.
10. AFMA is satisfied that risk of exceeding the black teatfish TAC has been substantially reduced, though not eliminated, through the introduction of the Fish Receiver System and demonstrated improvements in reporting by the industry. AFMA considers the residual risk acceptable when considering the conservative nature of the proposed TAC and the objective of the *Torres Strait Fisheries Act 1984* to have regard in developing and implementing licensing policy, to the desirability of promoting economic development in the Torres Strait area and employment opportunities for traditional inhabitants.
11. The Trial re-opening of fishing for black teatfish will most likely proceed in April 2021 as per the recommendation of the two traditional inhabitant members on the HCWG.
12. AFMA will continue to support Malu Lamar and the BDM industry more broadly, to undertake necessary meetings to agree on any voluntary measures and for AFMA to explain the proposed regulatory conditions for a potential opening.

How may the proposed decision impact Traditional Inhabitants?

13. Access to the BDM Fishery is reserved for Traditional Inhabitants. Varying TIB licence conditions to implement a trial TAC of 20 tonnes for black teatfish, with daily reporting of landed catches, will provide Traditional Inhabitants with access to a previously closed, high value species. This will provide a direct economic opportunity to Traditional Inhabitants.

Torres Strait Fisheries

Area of the Beche-de-mer Fishery



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



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

NOTES:

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

GeoCat #: 64841