



Torres Strait Fisheries Amendment (Tropical Rock Lobster) Management Instrument 2018

The Protected Zone Joint Authority determines the following management plan.

Dated 26 November 2018

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1 Name

This instrument is the *Torres Strait Fisheries Amendment (Tropical Rock Lobster) Management Instrument 2018*.

2 Commencement

This instrument commences on 1 December 2018.

3 Authority

This instrument is made under section 16 of the *Torres Strait Fisheries Act 1984*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018

1 Section 4

Insert:

allocation day has the meaning given by the Management Plan.

fishing season means the period commencing on 1 December and ending on 30 September in the following year.

Note: This definition does not, by implication or otherwise, affect the interpretation of the TIB Fishing Season in subsection 7(2).

hold, in respect of a licence granted under subsections 19(2) or 19(3) of the Act, includes where a person:

- (a) has been granted the licence; or
- (b) has been transferred (whether or not on a temporary basis) the licence under section 25 of the Act.

Management Plan means the management plan determined by the PZJA under section 15A of the Act in relation to the TRL fishery as may be in force from time to time.

primary boat licence means a commercial fishing licence that:

- (a) authorises the use of an Australian boat for taking Tropical Rock Lobster in the TRL fishery; and
- (b) is not a commercial fishing licence that is described as a Torres Strait traditional inhabitant fishing boat licence; and
- (c) is not a tender boat licence.

purchased licences: see paragraph 4A(2)(a).

TAC for the TIB sector (short for Total Allowable Catch for the traditional inhabitant boat sector): see section 4A.

tender boat licence means a commercial fishing licence that:

- (a) is granted in respect of an Australian boat that is a boat generally known as a tender; and
- (b) authorises the use of the boat for taking tropical rock lobster in the TRL fishery; and
- (c) specifies a primary boat, that is the subject of a primary boat licence, with which the tender must operate.

TIB Fishing Season (short for traditional inhabitant boat Fishing Season): see subsection 7(2).

TRL fishery (short for tropical rock lobster fishery) means the area of Australian jurisdiction described by item 9 of Schedule 2 to the Regulations.

TRL fishing licence has the meaning given by the Management Plan.

TVH licence (short for transferrable vessel holding licence) means a primary boat licence or a tender boat licence that is not held by the TSRA.

unused quota unit has the meaning given by the Management Plan.

2 Section 4 (definition of boat)

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

3 Section 4 (definition of Torres Strait Tropical Rock Lobster Fishery)

Omit the definition.

4 After section 4

Insert:

4A TAC for the TIB sector

- (1) The *TAC for the TIB sector* is:
- (a) 66.17% of the Total Allowable Catch; and
 - (b) the percentage of the Total Allowable Catch (if any) that the CEO has determined under subsections (2) or (3).

Purchase of primary boat licences or tender boat licences by the TSRA before the snapshot day

- (2) If:
- (a) the TSRA has been permanently transferred a primary boat licence or tender boat licence, or primary boat licences and tender boat licences, under section 25 of the Act (the *purchased licences*); and
 - (b) the transfer occurs before the snapshot day

the CEO may determine, by instrument, a percentage of the Total Allowable Catch that the CEO reasonably believes represents the number of quota units that would be allocated to the TSRA under section 15 of the Management Plan having regard to the number of quota units which may be provisionally allocated to the TSRA under subsection 20(6) of the Management Plan.

Note: The CEO may only make a determination under subsection (2) after a Management Plan has been determined for the TRL fishery.

Purchase of primary boat licences or tender boat licences by the TSRA on or after the snapshot day

- (3) If:
- (a) the TSRA has been permanently transferred the purchased licences;
 - (b) the transfer occurs on or after the snapshot day

the CEO may determine, by instrument, a percentage of the Total Allowable Catch that the CEO reasonably believes represents the number of quota units that would be allocated to the transferor of the licence under section 15 of the Management Plan having regard to the number of quota units which may be provisionally allocated to the transferor of the licence under subsection 20(6) of the Management Plan.

Note: The CEO may only make a determination under subsection (2) after a Management Plan has been determined for the TRL fishery.

Notification

- (4) An instrument determined by the CEO under subsections (2) or (3) must:
 - (a) be sent to all persons who hold a licence granted under subsections 19(2) or 19(3) of the Act which authorise the taking, processing or carrying of tropical rock lobster; and
 - (b) be published on the PZJA's website.
- (5) The CEO may exercise his or her powers under subsections (2) or (3) from time to time as occasion requires.

5 Section 6

Repeal the section, substitute:

6 Prohibition on taking, processing or carrying Tropical Rock Lobster

Subject to sections 7, 7A, 7B, 7C and 8, the taking, processing or carrying of Tropical Rock Lobster in the area of the TRL fishery is prohibited.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

6 Section 7

Repeal the section, substitute:

7 Licence holders within the TIB Fishing Season

- (1) A person is exempt from the prohibition in section 6 where:
 - (a) the person holds a licence granted under subsection 19(2) of the Act; and
 - (b) the licence is:
 - (i) not a primary boat licence or a tender boat licence; or
 - (ii) a primary boat licence or a tender boat licence held by the TSRA; and
 - (c) the licence is not suspended under section 26 of the Act; and
 - (d) the licence authorises the person to take, process or carry Tropical Rock Lobster in the TRL fishery; and
 - (e) the person takes, processes or carries Tropical Rock Lobster within the period described in subsection (2) (*TIB Fishing Season*).
- (2) The TIB Fishing Season is from 1 December 2018 until the earlier of:
 - (a) 30 September 2019; or
 - (b) the TIB Total Allowable Catch Date.

Note: A person is not exempt from the prohibition in section 6 by way of subsection (1) at any time after 30 September 2019.

- (3) Subject to subsection (5), the *TIB Total Allowable Catch Date* is a date determined by the CEO in respect of the TIB Fishing Season.
- (4) The CEO must not make a determination under subsection (3) in respect of the TIB Fishing Season unless:
 - (a) the CEO reasonably believes that the TAC for the TIB sector will be taken on or before the date to be determined as the TIB Total Allowable Catch Date; and

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- (b) before the determination is made, the CEO notified the Queensland Department of Agriculture and Fisheries and the TSRA of his or her intention to make the determination.
 - (5) If the CEO determines the TIB Total Allowable Catch Date in respect of the TIB Fishing Season, the CEO must send written notice (*TIB TAC Notice*) of the determination to all persons who hold a licence referred to in paragraphs (1)(a) to (d).
 - (6) In the event that a TIB TAC Notice is not sent at least 5 days before the TIB Total Allowable Catch Date determined under subsection (3), the TIB Total Allowable Catch Date is 5 days after the day on which the notice is sent.

7A TVH licence holders authorised to take Tropical Rock Lobster

A person is exempt from the prohibition in section 6 where:

- (a) the person holds a licence granted under subsection 19(2) of the Act; and
- (b) the licence is a primary boat licence or a tender boat licence, other than a primary boat licence or a tender boat licence held by the TSRA (a *TVH licence*); and
- (c) the TVH licence is not suspended under section 26 of the Act; and
- (d) the person takes, processes or carries Tropical Rock Lobster:
 - (i) in the period commencing 1 December 2018 and ending at the end of the day on 30 September 2019; and
 - (ii) in accordance with the conditions to which their TVH licence is subject under section 22 of the Act.

Note: Conditions will be imposed on TVH licences limiting the amount of Tropical Rock Lobster that can be taken from the TRL fishery by the TVH licence holder.

7B TVH licence holders not authorised to take Tropical Rock Lobster

A person is exempt from the prohibition in section 6 where:

- (a) the person holds a licence granted under subsection 19(3) of the Act that authorises the person to carry, or to process and carry, Tropical Rock Lobster that have been taken with another boat;
- (b) the licence is not suspended under section 26 of the Act; and
- (c) the licence does not authorise the person to take Tropical Rock Lobster in the TRL fishery; and
- (d) the person carries, or processes and carries, Tropical Rock Lobster in the period commencing 1 December 2018 and ending at the end of the day on 30 September 2019.

7C First fishing season after the allocation day

- (1) This section applies from the first day of the first fishing season after the allocation day.

Person holding unused quota units

- (2) A person is exempt from the prohibition in section 6 where:
 - (a) the person holds a TRL fishing licence; and

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- (b) the person has unused quota units within the meaning given by the Management Plan; and
 - (c) the person takes, carries or processes tropical rock lobster within a fishing season.

Traditional inhabitant sector

- (3) A person who is a traditional inhabitant is exempt from the prohibition in section 6 where:
 - (a) the person holds a TRL fishing licence; and
 - (b) the person takes, carries or processes tropical rock lobster within a fishing season; and
 - (c) a notice under section 11 of the Management Plan is not in force for the fishing season.

Person not required to hold quota

- (4) A person is exempt from the prohibition in section 6 where:
 - (a) the person holds a licence granted under subsection 19(3) of the Act that authorises the person to carry, or to process and carry, Tropical Rock Lobster that have been taken with another boat;
 - (b) the person carries or processes tropical rock lobster within a fishing season.

Note: A person holding a licence granted under subsection 19(3) of the Act is not required to hold quota units under the Management Plan.

7 Subsection 9(1)

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

8 Subsection 10(1)

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

9 Subsection 11(1)

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

10 Section 12

Repeal the section, substitute:

12 Prohibition on the use, possession or control of hookah gear

Subject to section 13, a person is prohibited from using, from having in his or her possession, or from having under his or her control, on a boat in the TRL fishery, any quantity of hookah gear.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

11 Section 14

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

12 Section 15

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.