



Australian Government  
Australian Fisheries Management Authority

## Frequently asked questions about the draft *Torres Strait Fishery (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2016*

This document provides answers to key questions about the draft *Torres Strait Fishery (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2016* (the draft plan). A section by section index to the management plan is provided at **Attachment A**.

# CONTENTS

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CONTENTS .....	2
EXECUTIVE SUMMARY .....	3
WHAT IS IT and WHY? .....	4
Why is a quota management system proposed for the TRL Fishery? .....	4
What is a management plan? .....	4
What is a management plan used for? .....	4
What is a quota management system? .....	4
How can quota management benefit Torres Strait Islanders and Aboriginal people, including their aspiration for 100 percent ownership of Torres Strait fisheries? .....	5
Who developed the plan? .....	6
WHAT WILL CHANGE UNDER QUOTA? .....	7
What will be new? .....	7
Will the area of the fishery change? .....	7
Are there any changes to arrangements with Papua New Guinea? .....	7
WHO WILL GET QUOTA? .....	8
How many quota units will there be? .....	8
Will the number of quota units change in the future? .....	8
How many quota units will the TIB and TVH sectors get? .....	8
Will quota units be allocated each year? .....	8
Will the quota units held between sectors and or operators change over time? .....	8
How will quota apply to the TIB sector on commencement? .....	8
How will quota apply to the TVH sector on commencement? .....	9
HOW WILL THE QUOTA SYSTEM WORK? .....	9
What species will be under quota in the Plan? .....	9
Who will be able to fish in the fishery? .....	9
Will new operators be able to enter the fishery? .....	9
Will there be restrictions on trading? .....	9
How is the Total Allowable Catch determined? .....	10
How much TRL can I take in a fishing season? .....	10
What is uncaught quota (or available quota units)? .....	10

If I have taken more TRL than my quota allows do I get any time to get more quota?.....	11
How can I get more quota? .....	11
How will I know how many kilograms of TRL a quota unit is worth? .....	11
What is the weight conversion ratio?.....	11
Can quota units be cancelled? .....	11
What do I need to go fishing? .....	11
Can I carry fish taken with another fishing boat? .....	12
Are there restrictions on who I can land TRL to?.....	12
Are there any changes to rules for traditional fishing? .....	12
ATTACHMENTS .....	12

## EXECUTIVE SUMMARY

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The *Torres Strait Fishery (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2016* will introduce a quota management system. Quota management aims to protect the sustainability of the TRL Fishery by limiting the amount of catch that can be taken; it can improve operational flexibility resulting in fishers receiving more money for each lobster landed, increasing their business profits; and it provides secure fishing access which supports investment and encourages fishers to protect the resource in the long-term.

Under the quota system a total allowable catch (TAC) will be determined each fishing season, the TIB sector and individual TVH fishers will hold shares of the TAC, when the TAC is reached fishing must stop for the remainder of the season, individual quota units (which convert to kilograms of TRL) will be tradable (sell, lease or buy) and access to the fishery will be limited by available quota units. The proposed quota management system will provide a tool in which Torres Strait Islanders and Aboriginal Traditional Owners may pursue their aspiration for 100 per cent ownership of Torres Strait commercial fisheries.

The fishery will continue to have output controls such as minimum size limits and bag limits for traditional and recreational fishing as well as a range of input controls that control how you must fish. The input controls in place in the fishery include requirements to hold a licence, tender number restrictions, moon-tide hookah closures, fishery closure 1 October to 30 November, Hookah closure 1 December to 31 January, fishing gear restrictions, prohibition on carrying meat removed from lobster, prohibition on carrying dive equipment at night and boat length restrictions and replacement policy. These arrangements will be periodically reviewed once the plan commences.

## WHAT IS IT and WHY?

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### Why is a quota management system proposed for the TRL Fishery?

Quota management aims to **protect the sustainability** of the TRL Fishery by limiting the amount of catch that can be taken.

Under the proposed quota system, Traditional Inhabitant Boat (TIB) and Transferrable Vessel Holder (TVH) sectors, including individual TVH fishers, will not be able to catch more than their allocated share. This reduces on-water competition as operators will no longer have a need to race one another to catch lobsters. It allows fishers to focus more on catching their share at the least cost. For example, a fisher may choose to fish when market prices are high or avoid times when it is hard to land healthy live lobsters (e.g. avoiding times when sea water temperatures are high and it is difficult to keep lobster alive). This operational flexibility can result in fishers receiving more money for each lobster landed and **increase their business profits**.

By controlling how much a fisher and/or sector can catch, there is an opportunity to review management arrangements that control how a fisher can fish (for example the number of tenders a fisher may use or the maximum length of a boat). Reducing controls on how fishers do their fishing provides them greater flexibility to **lower their operating costs** by allowing them to choose the most efficient means of harvesting their catch share. This can further increase profits for fishers. Fishers can decide themselves if they wish to grow their business by increasing their catch share through trading.

Tradable quota units will provide a **secure fishing entitlement**. This is because sectors and/or individual fishers will not be able to catch more than their share and quota units will be transferable and exist for the life of the plan. This is important not only for the fishery as a whole, but in particular for the TIB sector (more detail provided in section below). Creating more secure fishing access supports investment and encourages fishers to protect the resource in the long-term.

### What is a management plan?

A management plan is a legislative instrument determined under the *Torres Strait Fisheries Act 1984* (the Act). The Act sets out what may be included in a management plan.

### What is a management plan used for?

In 2005 the Protected Zone Joint Authority (PZJA) agreed to a quota management system being developed and implemented for the Torres Strait Tropical Rock Lobster (TRL) Fishery. A management plan is used to create a quota management system to manage the fishery sustainably. A management plan also provides stability in the management of a fishery, which helps people make business decisions.

### What is a quota management system?

A quota management system provides fishers and/or entities that represent groups of fishers, with a percentage share of the Total Allowable Catch (TAC). The TAC is the maximum amount of catch that can be sustainably taken in a fishing season as determined through monitoring and assessment of the stock each year.

The proposed TRL plan creates and grants quota units to eligible fishers and the TSRA (the TSRA will initially hold quota – as an entity – for and on behalf of the Traditional Inhabitant sector). The total number of quota units in the fishery is fixed; it does not change from fishing season to fishing season. However the amount of catch you may take against each quota unit will change as the TAC changes. For example if the TAC increases then you may take more catch for each quota unit you hold or have access to, but your percentage share remains the same (Figure 1).

An important feature of the quota management system is that quota units may be traded. That is, either leased each season from other fishers or permanently sold to others. Because individual quota units can be traded, they are commonly referred to as ‘Individual Transferable Quota’ (ITQs).

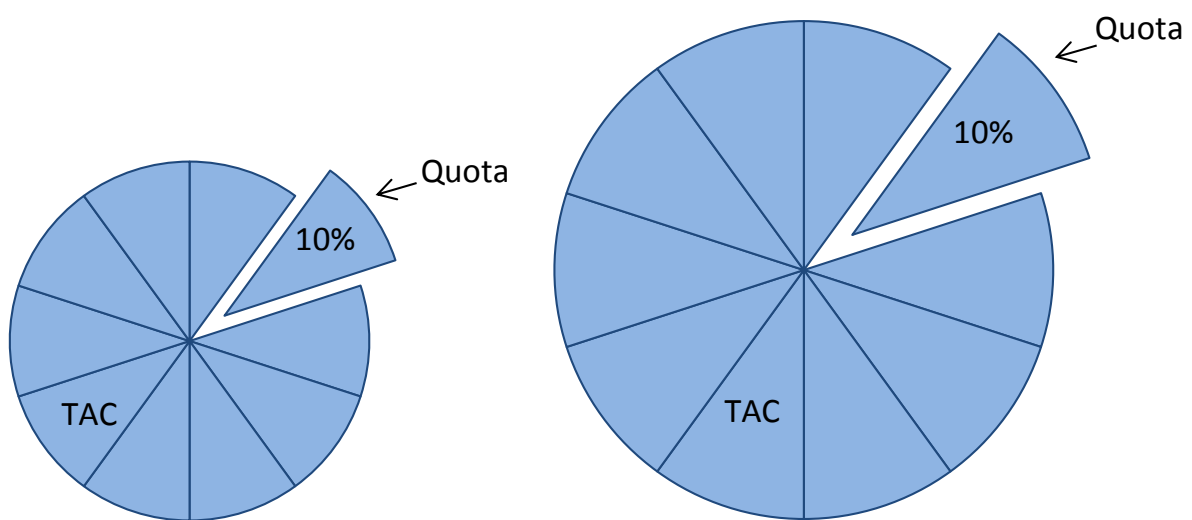


Figure 1. If the total allowable catch (TAC) gets bigger or smaller, the weight of catch of each person’s share also changes, but your proportion remains the same. The figure on the left represents a smaller TAC than the figure on the right.

### **How can quota management benefit Torres Strait Islanders and Aboriginal people, including their aspiration for 100 percent ownership of Torres Strait fisheries?**

TRL is a very important natural asset for the Torres Strait region and is currently shared by both Traditional Inhabitants and non-Traditional Inhabitants. Under current arrangements Traditional Inhabitants benefit from the TRL resource commercially by either catching it or being employed in a fishing business. TIB licences do not have market value because there is no cap on the number of TIB licences and they may only be owned and operated by Traditional Inhabitants. The licences do not provide a secure share of catch (there is no enforceable TAC or catch allocation). The licences do not provide security for further investment. The quota management system will provide a tradable entitlement that will have a market value regardless of whether or not it is held by the TIB or TVH sector. As described below TSRA will hold and trade quota on behalf of the TIB sector.

The proposed quota management system will provide a tool in which Torres Strait Islanders and Aboriginal Traditional Owners may pursue their aspiration for 100 per cent ownership of Torres Strait commercial fisheries. Tradable fishing entitlements (in the form of quota units) will provide a market-based mechanism to transfer ownership over time, building on the reallocations already delivered through past Government-funded buyouts. The TIB sector will have the flexibility to generate money from quota leasing and use those earnings to buy quota units from the TVH sector.

Importantly, the PZJA supports the development of quota allocation approaches for the TIB sector. The PZJA agreed to initially allocate catch shares to Traditional Inhabitants at a sectoral rather than at an individual or company level. The PZJA agreed to review the plan two years after its implementation to allow for improvements, including a possible allocation to individuals or companies within the TIB sector. Developing a revised allocation approach offers an important opportunity for the TIB sector and communities to further maximise the benefits of quota management. Some communities for example have expressed a strong preference for greater community-level ownership of entitlements and management responsibilities. Other suggestions included ownership by a single Indigenous owned private company through to individual ownership.

The quota management system will also provide a framework to establish a more secure investment environment for existing, new or emerging Indigenous owned and operated fishing businesses as new allocation approaches are developed. These businesses have the potential to provide significant economic and employment opportunities for local communities.

### **Who developed the plan?**

In 2005 the PZJA agreed to implement a TRL Fishery management plan and a quota management system for the fishery. AFMA has been working with the Tropical Rock Lobster Resource Assessment Group (TRLRAG), the Tropical Rock Lobster Working Group (TRLWG), the Torres Strait Regional Authority (TSRA), the Queensland Department of Agriculture and Fisheries and community stakeholders to develop the draft plan to where it is now.

AFMA has conducted consultation with stakeholders including convening community meetings across all Torres Strait and Northern Peninsula Communities. In total 19 community meetings were held between October 2014 and November 2015. Representatives from Malu Lamar Registered Native Title Body Corporate (RNTBC) attended some meetings.

At its meeting on 29 April 2016 the PZJA agreed to make available a draft *Torres Strait Fishery (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2016* for public comment for three months. In agreeing to release the draft plan the PZJA noted the TSRA will seek additional elements in the plan, these include:

- a) introducing an economic development contribution from the holders of transferable quota;
- b) the Traditional Inhabitant sector (TIB) to be given first right of refusal in sale of Transferable Vessel Holder (TVH) licences; and

- c) transfers only to be made between existing licence holders in pursuit of 100 per cent ownership by traditional owners.

## WHAT WILL CHANGE UNDER QUOTA?

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### What will be new?

1. A Total Allowable Catch (TAC) will be determined each fishing season.
2. The TIB sector and individual TVH fishers will hold shares of the TAC.
3. When the TAC is reached fishing must stop for the remainder of the fishing season. Similarly if a fisher or group has taken its catch share, the fisher or those fishing in the group must stop fishing. Uncaught quota units must be held in order to go fishing.
4. Individual quota units (which convert to kilograms of TRL) will be tradable (lease, sell or buy).
5. Access to the fishery will be limited by available quota units. A person must have both quota (hold directly or have access to quota held by a representative group) and a fishing licence to fish in the fishery. The number of quota units will be capped. The plan does not limit the number of fishing licences (TIB or TVH) that may be granted. Availability of quota units will determine the number of fishing licences in the fishery.

Note consistent with the PZJA decision to release the draft plan for public comment, the TSRA is seeking additional elements in the plan that relate to trading arrangements. These include:

- a) the Traditional Inhabitant sector (TIB) to be given first right of refusal in sale of Transferable Vessel Holder (TVH) licences; and
- b) transfers only to be made between existing licence holders in pursuit of 100 per cent ownership by traditional owners.

### Will any of the existing rules in the fishery change immediately?

No. The fishery will continue to have output controls such as minimum size limits and bag limits for traditional and recreational fishing as well as a range of input controls that control how you must fish. The input controls in place in the fishery include requirements to hold a licence, tender number restrictions, moon-tide hookah closures, fishery closure 1 October to 30 November, Hookah closure 1 December to 31 January, fishing gear restrictions, prohibition on carrying meat removed from lobster, prohibition on carrying dive equipment at night and boat length restrictions and replacement policy. These arrangements will be periodically reviewed once the plan commences. An outline of existing management arrangements and expected changes is provided at **Attachment B**.

### Will the area of the fishery change?

No, the area of the fishery will remain the same under the management plan.

### Are there any changes to arrangements with Papua New Guinea?

No, catch sharing arrangements between Australia and Papua New Guinea (PNG) will remain unchanged. Under the Torres Strait Treaty PNG cross-endorsed vessels are entitled to take 25 per cent of the TAC within Australian waters. Cross-endorsement

arrangements for PNG fishers will remain the same and be managed through separate licences. PNG fishers will not be allocated quota units under the plan.

## **WHO WILL GET QUOTA?**

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### **How many quota units will there be?**

The plan will create 1 000 000 quota units. This large number of units ensures that quota units will be relatively small in terms of the weight of TRL and to ensure adequate trading flexibility. For example, if the Australian TAC was 500 tonne, each quota unit will equal 0.5kg. There are enough quota units to allow operators or the TIB sector to buy or lease small or large amounts of quota at a time.

### **Will the number of quota units change in the future?**

Potentially. There will never be more than 1 000 000 quota units, however, the number could decrease, but only if some quota units are cancelled (see section 'can quota unit be cancelled').

### **How many quota units will the TIB and TVH sectors get?**

The TIB sector will be granted 56.2 per cent of all quota units in the fishery (or 562 000 quota units) and the TVH sector will be granted 43.8 per cent (or 438 000 quota units) at the time of writing. This allocation is based on a PZJA agreed starting point for the allocation and the result of subsequent Government funded buyouts.

In 2007 the PZJA agreed that the starting point for the allocation of the TRL Fishery between the Australian sectors was 35 per cent TIB sector and 65 per cent TVH sector. Government funded voluntary buyouts were conducted in 2007 and 2012 resulting in a total of 14 primary licences and 30 associated tenders being removed from the fishery. The Australian sectoral shares have been adjusted to 56.2 per cent or 562 000 quota units allocated to the TIB sector and 43.8 per cent or 438 000 quota units allocated to the TVH sector.

### **Will quota units be allocated each year?**

No. Once quota units have been granted there will be no further grants of quota units. The grant occurs once. This protects the value of the quota units granted under the Plan. What does change is the kilo value of each unit each year (refer to section 'How will I know how many kilograms of TRL a quota unit is worth').

### **Will the quota units held between sectors and or operators change over time?**

Yes, more than likely. Quota units may be traded. Trading will result in changes to relative quota unit holdings by different parties. For example the TIB share could increase over time as the sector buys quota from the TVH sector.

### **How will quota apply to the TIB sector on commencement?**

The Plan initially allocates quota units to the Torres Strait Regional Authority (TSRA) to hold on behalf of the TIB sector. The Plan requires that within two years of it commencing the TIB sector's allocation is to be reviewed.



The review will look at various options for the sector's quota allocation, including being held at the sectoral level (in a single pool), held by individuals or a combination of these. Options of quota allocation for the TIB sector may include a) private company or companies, b) individuals, or c) a combination of the two.

### **How will quota apply to the TVH sector on commencement?**

In 2007 after consulting with stakeholders an Independent Allocation Advisory Panel (AAP) recommended a formula for allocating quota units to individual TVH fishers. The PZJA agreed to the formula which allocates quota units to TVH fishers on the following basis:

1. 20 per cent of TVH sector quota units (87 600 quota units) are allocated based on the number of tender boat licences held; and
2. 80 per cent of TVH sector quota units (350 400 quota units) are allocated based on verified catch history. Catch history is each primary boat licence's highest average annual catch for three years over the five year period 1997-2001.

Under the Plan the Minister will provide notice to persons who hold a TVH primary boat licence of their provisional catch history within 28 days of the commencement of the Plan. Within 14 days of receiving the notice a person may object to the catch history in the notice. In doing so they must provide written evidence to support any claims. The Minister must make a final allocation decision within three months of the catch history notices being issued. If dissatisfied, a person may apply to the Administrative Appeals Tribunal (AAT) for review of the Minister's final allocation decision. The AAT conducts independent reviews of administrative decisions made under Commonwealth laws.

## **HOW WILL THE QUOTA SYSTEM WORK?**

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### **What species will be under quota in the Plan?**

The Plan covers all lobster species in the family *Palinuridae*; the principle species in the Torres Strait is the tropical rock lobster (*Panulirus ornatus*).

### **Who will be able to fish in the fishery?**

To fish in the fishery a TVH operator must hold both a fishing licence and uncaught quota. For a TIB operator, the person must hold a fishing licence and either directly hold or have access to uncaught quota units. A TIB fisher will be deemed to have access to quota held by TSRA on the sectors behalf.

### **Will new operators be able to enter the fishery?**

Yes, provided they have leased or own uncaught quota and been granted a fishing licence.

### **Will there be restrictions on trading?**

No, unless your licence is suspended or cancelled (see below). The draft plan places no restrictions on the leasing or selling of quota. Quota units will be 'fully transferable'. Transferability of quota units allows owners to lease or sell their entitlement whenever they wish. Restrictions on transferability will have a negative impact on the value of fishing entitlements.

Fully transferable quota units together with no restrictions of fishing licences is likely to optimise the value of fishing entitlements and support the transfer of ownership. Under the proposed arrangements it will be open to the TIB sector to trade with a potentially larger more competitive market. This is likely to result in a higher return on leasing.

Based on preliminary consultation, Torres Strait communities expressed a preference to impose trading restrictions on the TVH sector to expedite the transition to 100 per cent ownership. Quota trading is a tool that may be used to achieve ownership. TVH licences are currently fully transferable. Imposing trading restrictions is highly likely to devalue those licences and quota units in the fishery as whole. Counter to moving towards 100 per cent ownership, trading restrictions may also create a disincentive to permanently transfer. If fishing entitlements are devalued there is less incentive to sell.

Note consistent with the PZJA decision to release the draft plan for public comment, the TSRA is seeking additional elements in the plan that relate to trading arrangements. These include:

- c) the Traditional Inhabitant sector (TIB) to be given first right of refusal in sale of Transferable Vessel Holder (TVH) licences; and
- d) transfers only to be made between existing licence holders in pursuit of 100 per cent ownership by traditional owners.

### **How is the Total Allowable Catch determined?**

Before each fishing season the Minister will set the total allowable catch which is the amount of TRL that may be taken from the fishery. The Minister must consider information that is provided by the Tropical Rock Lobster Resource Assessment Group (TRLRAG) and the Tropical Rock Lobster Working Group (TRLWG).

The Minister may increase the TAC during a fishing season. For example, if Papua New Guinea (PNG) does not cross-endorse any vessels and if the global TAC (the total allowable catch for the entire Protected Zone including both PNG and Australian waters) will not be taken in a fishing season, the Minister may increase the TAC to allow Australian vessels to access the 25 per cent allocated to PNG in the Australian area of jurisdiction. If the TAC is increased the value (kilogram amount for each quota unit) of all quota units will be increased proportionally.

### **How much TRL can I take in a fishing season?**

A fisher will not be able to take more than the amount of uncaught quota they hold or have access to.

If you are a TIB fisher you will be deemed to have access to the quota held by TSRA. If the combined catch by all TIB fishers reaches the amount of quota held by TSRA then all TIB fishers will have to stop fishing for the remainder of the fishing season.

If you are a TVH operator the amount of TRL you may take at a particular time during the fishing season is the total amount of uncaught quota you hold.

### **What is uncaught quota (or available quota units)?**

Uncaught quota is the number of kilograms you hold or have access to (determined by the quota unit value) less the kilograms caught. The conversion factor (2.677 to 1) is applied to

any tailed product landed; this is used to work out the whole kilogram amount of TRL taken.

### **If I have taken more TRL than my quota allows do I get any time to get more quota?**

If you take more TRL than you have quota you will have committed an offence under the *Torres Strait Fisheries Act 1984*.

### **How can I get more quota?**

You can either buy or lease more quota. For example a TVH operator may lease quota from the TSRA if they expect to catch their own entire quota.

### **How will I know how many kilograms of TRL a quota unit is worth?**

Once the Minister has set a TAC for the TRL Fishery, the amount each quota unit is worth will be calculated. This is done by dividing the Australian total allowable catch (in kilograms) by the total amount of quota units in force in the fishery. The result of this calculation is the weight value in kilograms of whole TRL each quota unit is for the fishing season.

### **What is the weight conversion ratio?**

It is a calculation used to convert tail weight to whole weight. Under the Plan the Minister determines the weight conversion factor. The current conversion factor for tailed to whole TRL is 2.677 to 1.

### **Can quota units be cancelled?**

Yes. Quota units would be automatically cancelled if a person's fishing licence was cancelled. In accordance with the Act, the Minister has the discretion to:

1. suspend a licence where a person fails to comply with conditions and other relevant instruments and regulations relating to the persons licence; and
2. cancel a licence if (i) the holder is convicted of a fisheries related offence; or (ii) another person in relation to the boat to which the licence has been granted, is convicted of a fisheries related offence; or (iii) payment of a fee or levy relating to the licence is not made.

### **What do I need to go fishing?**

A person wishing to fish in the TRL Fishery in the TIB sector will need the following authorisations:

1. a TIB fishing boat licence with TRL endorsement;
2. a processor carrier class licence, if operating a primary vessel with tenders;
3. available TRL quota units (held by TSRA); and
4. if working from a TVH vessel a Master Fisherman's Licence.

A person wishing to fish in the TRL Fishery in the TVH sector will need the following authorisations:

1. a fishing boat licence with TRL endorsement;
2. a boat nominated and registered to the fishing boat licence;
3. a processor carrier class licence, if operating a primary vessel with tenders;
4. available TRL quota units; and
5. a Master Fisherman's Licence held by at least one crew member for each vessel.

### **Can I carry fish taken with another fishing boat?**

You can only take TRL from other fishing boats if you hold a Torres Strait Processor Carrier Class B or Class C licence nominated to your fishing boat.

### **Are there restrictions on who I can land TRL to?**

Not yet. Currently you can land TRL to anyone. However, a fish receiver system may be introduced. Under this arrangement you may only land to a person who holds a fish receiver permit. There has been no decision on implementing fish receivers in the Torres Strait yet. However, it is important that the PZJA is able to accurately monitor the amount of catch taken against the quota each season to ensure the fishery remains sustainable. Failure to enforce catch against quota will also compromise the value of quota units.

### **Are there any changes to rules for traditional fishing?**

No. The rules for traditional fishing remain the same under the management plan:

1. A personal possession limit of three tropical rock lobster.
2. If diving from a boat and there is at least one other person in the boat, there is a boat limit of six tropical rock lobster.
3. There is no size limit for tropical rock lobster taken in the course of traditional fishing.

## **ATTACHMENTS**

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- A. Section by section index to the management plan.
- B. Existing management arrangements and expected changes.