

14 October 2024

Dear Sir/Madam,

Comment on a proposed management action: section 24HA(2) of the *Native Title Act 1993*

I am writing to you on behalf of the Secretariat of the Protected Zone Joint Authority (PZJA) regarding the proposed management action to implement licence conditions for Traditional Inhabitant Boat licences that permit the take of sea cucumber species in the waters of the Torres Strait Beche-de-mer Fishery. Further details of the proposed action can be found in **Attachments A-D - Class Notification under the *Commonwealth Native Title Act 1993***.

Under section 24HA(7), the PZJA must give the recipient of this notice an opportunity to comment on the action within a period defined by this notice. Please provide any comments on the proposed management action by **close of business 8 November 2024**, in writing:

Australian Fisheries Management Authority
Att: Natalie Couchman
PO Box 376
Thursday Island, QLD, 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 cannot meet the timeframe or have any questions regarding the proposed management action, please contact me by phone on 07 4069 1990 or email FisheriesTI@afma.gov.au.

Yours sincerely



Natalie Couchman
On behalf of PZJA Secretariat
Senior Management Officer
Torres Strait Fisheries
AFMA

Attachments

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

Class Notification under the Commonwealth *Native Title Act 1993*

Proposed licence conditions for Torres Strait Beche-de-mer Fishery Traditional Inhabitant Boat licences

Date of Issue: 14 October 2024

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	Natalie Couchman
E-MAIL	FisheriesTI@afma.gov.au
TELEPHONE NO.	(07) 4069 1990
REFERENCE NO.	NTN2024-06 – Proposed licence conditions for Torres Strait Beche-de-mer Fishery Traditional Inhabitant Boat licences

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

TYPE OF APPROVAL	Implementation of Torres Strait Beche-de-mer Fishery (BDM Fishery) Traditional Inhabitant Boat (TIB) licence conditions under section 22 of the Commonwealth <i>Torres Strait Fisheries Act 1984</i> (the Act)
NUMBER OF APPROVALS	Licence conditions for all TIB licences that permit the take of sea cucumber species in the area of waters of the BDM Fishery
UNDER WHAT ACT	<i>Torres Strait Fisheries Act 1984</i>

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 the Australian Fisheries Management Authority (AFMA), as a Protected Zone Joint Authority (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 management action that is the subject of this notification, proposes to implement licence conditions for TIB licences that permit the take of sea cucumber species in the area of waters of the BDM Fishery. Subject to PZJA delegate approval and in line with the BDM Fishery Harvest Strategy, the proposed licence conditions will:</p> <ul style="list-style-type: none"> - implement an annual 10 tonnes total allowable catch (TAC) for amberfish (<i>Theleota anax</i>); - implement a TAC undercatch carryover provision for black teatfish (<i>Holothuria whitmaei</i>); - correct administrative errors in the conversion ratios to be applied to landed catches, to accurately reflect those detailed in Appendix A.1 of the BDM Fishery Harvest Strategy. <p>The remaining licence conditions for TIB licences that permit the take of sea cucumber species in the area of waters of the BDM Fishery will remain the same.</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	<p>The proposed management action would apply to the area of the BDM Fishery (Attachment C). The extent of the BDM Fishery is described in Item 1, Schedule 2 of the <i>Torres Strait Fisheries Regulations 1985</i> (the Regulations). The Regulations can be accessed online at: https://www.legislation.gov.au/Details/F2016C00633</p> <p>The species of sea cucumbers that are the subject of this notification have a distribution predominantly in the eastern Torres Strait with fishing mainly occurring in the areas of Warrior, Warraber, Great North East Channel, Darnley, Cumberland, Seven Reefs and Don Cay. A map showing these areas is provided at Attachment D. These areas include waters surrounding the islands of Iama, Masig, Erub, Mer, Ugar, Warraber and Poruma.</p>
MAPS/PLANS	<p>Attachment C shows the area of the BDM Fishery, as described in Item 1, Schedule 2 of the Regulations.</p> <p>Attachment D shows the areas used by TIB licence holders for reporting locations of catch in the BDM Fishery.</p>
NAME OF REGISTERED NATIVE TITLE CLAIMANT GROUP/S OR NAME OF REGISTERED NATIVE TITLE BODY CORPORATE	<p>Torres Strait Regional Seas Claim (QC2001/042) Kaurareg People #1 (QC2008/006) Kaurareg People #2 (QC2008/007) Malu Lamar (Torres Strait Islander) Corporation RNTBC – Torres Strait Regional Sea Claim (QCD2010/003) Ipima Ikaya Aboriginal Corporation RNTBC – Northern Cape York Group #1 (QCD2014/017) Gudang Yadhaykenu Native Title Aboriginal Corporation RNTBC – Torres Strait Regional Seas Claim (QCD2022/013) Northern Cape and Torres Strait United Indigenous Corporation – Torres Strait Regional Seas Claim (QCD2022/013) Seven Rivers Aboriginal Corporation RNTBC – Torres Strait Regional Seas Claim (QCD2022/013)</p>
NAME OF NATIVE TITLE REPRESENTATIVE BODY	<p>Cape York Land Council Aboriginal Corporation Gur A Baradharaw Kod Torres Strait Sea and Land Council</p>

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

DURATION OF APPROVAL	It is planned that the proposed management action will be implemented from 1 January 2025 (start of the 2025 fishing season).
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You are invited to comment upon the class of proposed future acts outlined above by close of business 8 November 2024.

Any comments must be **in writing**:

By email to: FisheriesTI@afma.gov.au

Or by mail addressed to:
Australian Fisheries Management Authority
Att: Natalie Couchman
PO Box 376
Thursday Island, QLD, 4875

Background Information

What are the proposed 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 Australian Fisheries Management Authority (AFMA), as a Protected Zone Joint Authority (PZJA) delegate, to vary or revoke the conditions of the licence or specify further conditions to which the licence is subject to.
2. The management action that is the subject of this notification, proposes to implement licence conditions for Traditional Inhabitant Boat (TIB) licences that permit the take of sea cucumber species in the area of waters of the Torres Strait Beche-de-mer Fishery (BDM Fishery). It is planned that the licence conditions will be implemented from 1 January 2025 (start of the 2025 fishing season). Subject to PZJA delegate approval and in line with the [BDM Fishery Harvest Strategy](#), the proposed licence conditions will:
 - a. implement an annual 10 tonnes total allowable catch (TAC) for amberfish (*Thelenota anax*);
 - b. implement a TAC undercatch carryover provision for black teatfish (*Holothuria whitmaei*);
 - c. correct administrative errors in the conversion ratios to be applied to landed catches, to accurately reflect those detailed in Appendix A.1 of the BDM Fishery Harvest Strategy.
3. The remaining licence conditions for TIB licences that permit the take of sea cucumber species in the area of waters of the BDM Fishery will remain unchanged.

Why are the changes to TIB licence conditions being proposed?

10 tonnes TAC for amberfish

4. Amberfish have been listed under Appendix II of the *Convention on the International Trade of Endangered Species of Wild Fauna and Flora* (CITES). This listing of came into effect on 25 May 2024. Amberfish is not a key species in the BDM Fishery, and there have been no reported catches since 2001.
5. CITES is a binding international agreement aimed at preventing international trade from driving unsustainable population decline in species listed under the Convention. Australia is a Party to CITES. Species listed under Appendix II of CITES are not necessarily threatened with extinction, and may still be traded internationally provided the trade, or a specified level of trade, has been determined to be non-detrimental to the survival of the species in the wild. With regards to Australian commercial fisheries, to export CITES listed species for commercial purposes, the species must come from a fishery that is both an approved Wildlife Trade Operation (WTO) and has a Non-Detriment Finding (NDF) for the applicable species. In Australia, the Department of Climate Change, Energy, the Environment and Water (DCCEEW) has responsibility for implementing CITES requirements. These are given effect through the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
6. To prepare for the listing of amberfish, DCCEEW undertook an assessment of the environmental performance all Australian fisheries that harvest and export the species, including the BDM Fishery. This assessment determined that the harvest and trade of the species from Australia is sustainable, and provided conditions are met, will not be detrimental to, or contribute to trade, which is detrimental to, the survival or recovery of the species. The NDF is subject to a range of conditions, which must be complied with for the species to be accepted by international trading partners. The conditions are specified under the [WTO approval for the BDM Fishery](#). One of these conditions is for AFMA to implement an annual 10 tonnes TAC for amberfish in the BDM Fishery.
7. The WTO conditions, including those pertaining to the amberfish TAC, were considered at HCRAG05 and HCWG21 held on 17-19 September 2024. Both the HCRAG and HCWG recommended a 10 tonne TAC for amberfish. It is proposed that this condition is met by

implementing a licence condition prescribing an annual 10 tonnes TAC for amberfish on TIB licences that permit the take of sea cucumber species in the area of waters of the BDM Fishery, from 1 January 2025.

Black teatfish TAC undercatch carryover provision

8. TAC overcatch is currently provided for under the [BDM Fishery Harvest Strategy](#) (decision rule 2.11.1.1). However, there is currently no provision in the BDM Fishery Harvest Strategy for the carryover of TAC undercatch.
9. Given the precautionary nature of management arrangements for black teatfish openings to ensure the TAC is not exceeded, the TAC for the last four openings has been undercaught (12% in 2021, 14.5% in 2022, 10.5% in 2023 and 21.5% in 2024). The intent of TAC undercatch carryover provision for black teatfish would be to partly address the loss of economic opportunity currently being experienced. Industry stakeholders have been generally supportive of its development in the HCRAG, HCWG and other forums (BDM Workshop held in March 2023).
10. At [HCWG19](#), held on 10 November 2022, the HCWG sought advice from the HCRAG on the scientific basis for the development and application of a TAC undercatch carryover provision. At [HCRAG03](#), held on 17-18 October 2023, the HCRAG considered the development of a TAC undercatch carryover provision for black teatfish. HCRAG scientific members advised that they had no concerns with the development of TAC undercatch carryover provisions for black teatfish. It was noted that the life history of the species was suited to the arrangement (longer lived). It was also noted that previous management strategy evaluation (MSE) testing of different harvest strategy approaches indicated that the arrangement did not raise sustainability risks for the species.
11. Considering the scientific advice, HCRAG03 agreed that the arrangement did not raise sustainability risks for the species and to the development of a TAC undercatch carryover provision for black teatfish to allow for up to 10% of the current fishing season's TAC, if not caught, to be carried over from the current season to the subsequent season. As part of discussions, it was clarified that the undercatch carryover amount would not be able to be carried over for more than one season (i.e. if it is not caught in the subsequent season, it cannot be carried over again).
12. At [HCRAG04](#), held on 14 August 2024, the HCRAG considered draft wording for a TAC undercatch carryover provision for black teatfish. The draft provision is consistent with AFMA's [Fisheries Management Policy 10](#). The RAG recommended public consultation be undertaken on the draft provision. In the intersessional period following HCRAG04, AFMA undertook public consultation on the draft provision. Letters and emails were sent to BDM Fishery licence holders and a request for public comment was placed on the [PZJA website](#). The public consultation period closed on 13 September 2024.
13. The outcomes of public consultation were considered at HCRAG05 and HCWG21 held on 17-19 September 2024. Both the HCRAG and HCWG recommended the draft provision (below) be adopted by the PZJA. As the provision will be given effect through an amendment to the BDM Fishery Harvest Strategy (section 2.11.1.1) and subsequently licence conditions, it will require approval by the PZJA prior to implementation. Annual TACs, including any applicable undercatch to be carried over, will be given effect through licence conditions.

For black teatfish, if the current fishing season TAC is not fully caught, an amount equal to the amount of undercatch not exceeding 10% of the current season TAC may carry over from the current fishing season to the next fishing season. Any undercatch amount cannot be carried over for more than one fishing season.

For example, if the current fishing season's TAC is undercaught by 5%, then only the amount equating to that 5% can be carried over from the current fishing season to the next fishing season.

The fishing season for the BDM Fishery runs from 1 January to 31 December each year.

Corrections to conversion ratios

14. TACs for the BDM Fishery are measured in wet weight (gutted) form. Conversion ratios are applied to convert the reported processed weights of landed product back to a standard unit of wet weight (gutted).
15. In November 2019, the PZJA adopted the BDM Fishery Harvest Strategy, including revised conversion ratios for sea cucumber species in the BDM Fishery. These conversion ratios were given effect through licence conditions on TIB licences in the BDM Fishery. At the time of implementation, administrative errors were made in transcribing the adopted conversion ratios into licence conditions. The proposed management action will correct these administrative errors, to accurately reflect those conversion ratios detailed in Appendix A.1 of the BDM Fishery Harvest Strategy.

How may the proposed management action impact the environment or other fisheries?

16. The proposed management action is designed to pursue objectives under the Act, including to protect and preserve the marine environment and indigenous fauna and flora in and in the vicinity of the Torres Strait Protected Zone.
17. The WTO condition for AFMA to implement an annual 10 tonnes TAC for amberfish in the BDM Fishery is at the direction of DCCEEW. DCCEEW made the condition on the basis of [independent scientific advice](#) they received to inform the NDF for the species. The proposed licence condition to implement a TAC undercatch carryover provision for black teatfish, has been supported by the HCRAG and HCWG, with advice that it does not pose sustainability risks to the species. The proposed corrections to conversion ratios will ensure catches are accurately accounted for against TACs.

How may the proposed activity impact Traditional Inhabitants?

18. The proposed management action is consistent with the objectives of the Act 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.
19. Access to the BDM Fishery is reserved for Traditional Inhabitants. The proposed licence condition to implement an annual 10 tonnes TAC for amberfish, will allow for the continued export of the species under the WTO approval. The intent of the proposed licence condition to implement a TAC undercatch carryover provision for black teatfish, is to partly address the loss of economic opportunity currently being experienced. Both the proposed licence conditions will either maintain or provide a direct economic opportunity to Traditional Inhabitants.

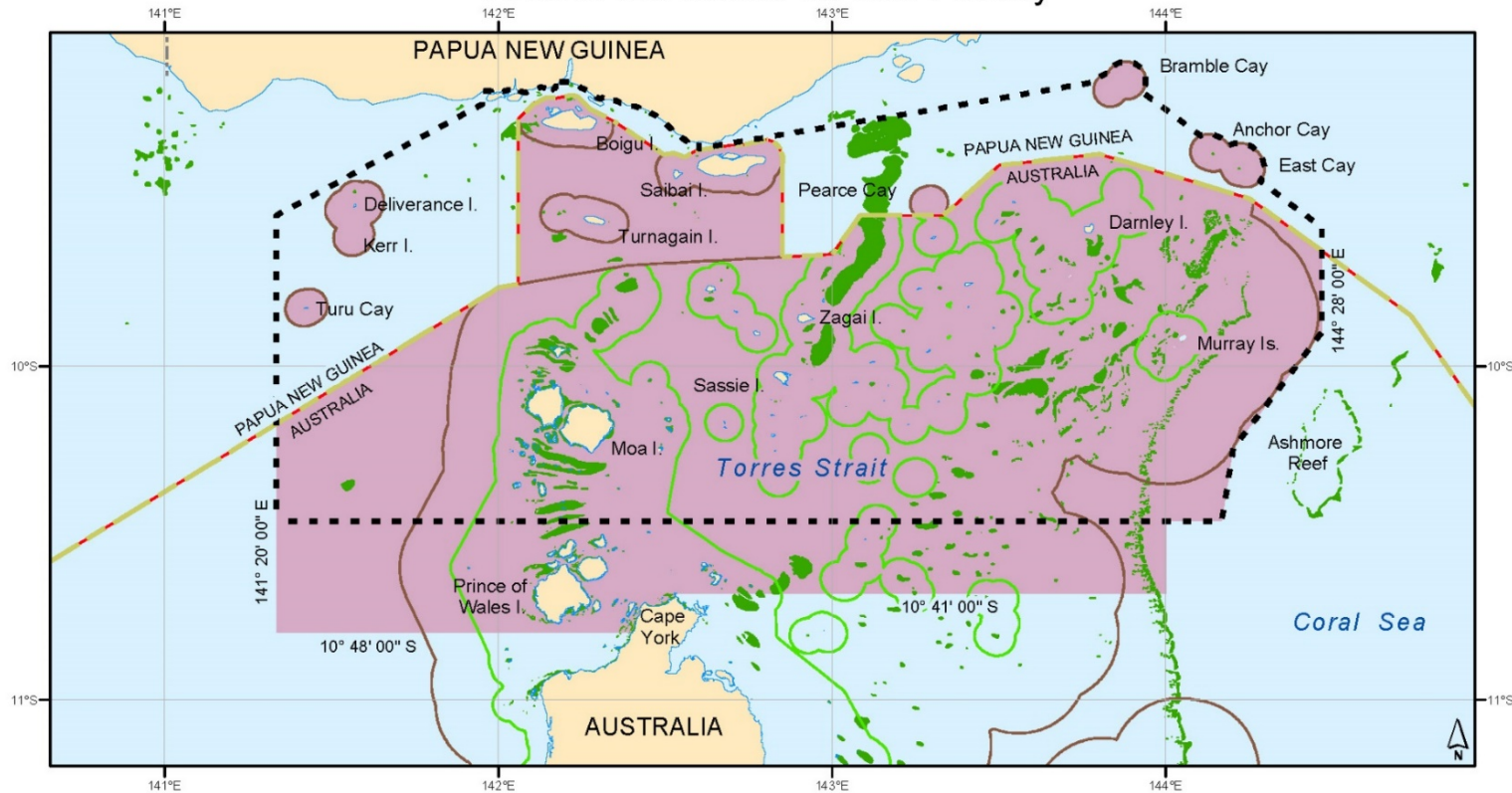
How may the proposed activity impact Native Title Holders?

20. The proposed management action is designed to pursue objectives under the Act, including:
 - a. to acknowledge and protect the traditional way of life and livelihood of traditional inhabitants, including their rights in relation to traditional fishing;
 - b. to protect and preserve the marine environment and indigenous fauna and flora in and in the vicinity of the Protected Zone;
 - c. to adopt conservation measures necessary for the conservation of a species in such a way as to minimise any restrictive effects of the measures on traditional fishing;
 - d. to administer the provisions of Part 5 of the Torres Strait Treaty (relating to commercial fisheries) so as not to prejudice the achievement of the purposes of Part 4 of the Torres Strait Treaty in regard to traditional fishing;
 - e. to manage commercial fisheries for optimum utilisation;

- f. 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.
21. AFMA, on behalf of the PZJA, have undertaken consultation, including with representative Aboriginal and Torres Strait Islander bodies, RNTBCs and registered native title claimants, including through the HCRAG and HCWG, to ensure arrangements are well designed and best pursue the objectives of the Act.

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



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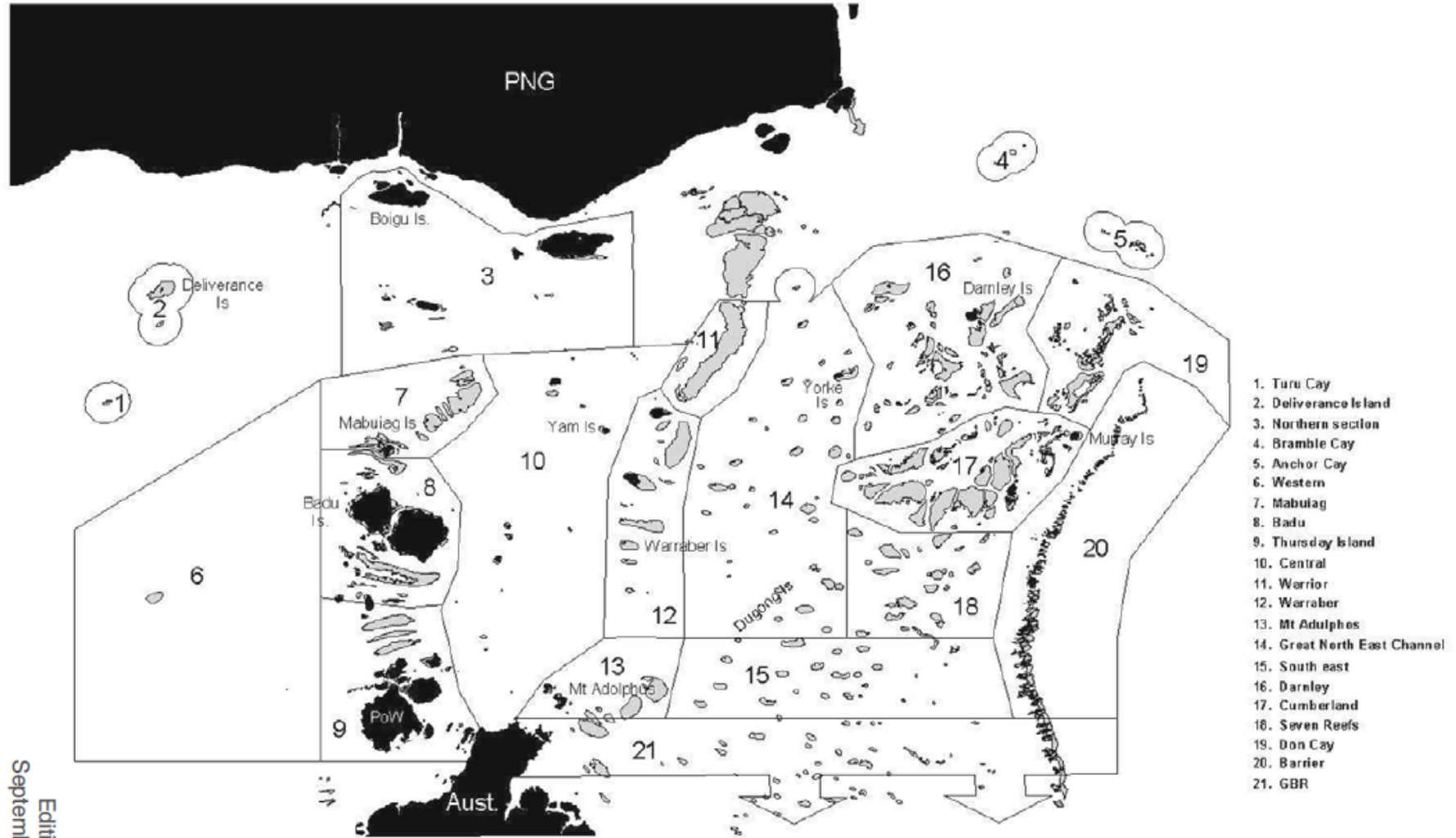
Geographic
Datum: WGS84

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

AREAS FOR TORRES STRAIT CATCH DISPOSAL RECORD



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Use area where most catch was taken