

**LICENSING AND ALLOCATION
UNDER A NEW MANAGEMENT
PLAN FOR THE WEST COAST
ROCK LOBSTER
MANAGED FISHERY**

A DISCUSSION PAPER

FISHERIES MANAGEMENT PAPER NO. 253

Published by
Department of Fisheries
168 St. Georges Terrace
Perth WA 6000

February 2012
ISSN 0819-4327

Licensing and Allocation Under a
New Management Plan for the
West Coast Rock Lobster Managed Fishery

February 2012

Fisheries Management Paper No. 253

ISSN 0819-4327



Government of **Western Australia**
Department of **Fisheries**

CONTENTS

OPPORTUNITY TO COMMENT	1
PURPOSE AND SUMMARY OF RECOMMENDATIONS	2
SECTION 1 BACKGROUND	4
1.1 Moving to Individual Transferable Quotas (ITQs)	4
1.2 Licences and Entitlement Under the Current Management Plan	5
SECTION 2 NEW MANAGEMENT PLAN PROPOSALS	6
2.1 Revocation of the Current Management Plan	6
2.2 Zones of the Fishery	6
2.2.1 Biological Considerations	7
2.2.2 Allocation Issues	7
2.3 Fishery Capacity	8
2.4 One Licence, Three Classes of Unit	8
2.5 Criteria for the Grant of an MFL	9
2.6 Allocation of Units to Licences	10
2.6.1 Allocation of Units to Zone A MFL Holders.....	10
2.6.2 Allocation of Abrolhos Islands Units to Zone A MFL Holders.....	11
2.6.3 Principles Underpinning the Allocation of Zone B Units to Zone A Licence Holders.....	11
2.6.4 Changes in the Number of Zone A and B Units Over Time and the Allocation Process	11
2.6.5 Method for Determining the Number of Zone B Units Allocated to Zone A MFL Holders	11
2.7 Minimum Number of Units Needed to Operate in the Fishery	13
2.8 Pot Usage Limits.....	14
2.9 Fishing Season.....	15
2.10 Consultation Regarding Amending or Revoking the New Management Plan	16
SECTION 3 ADMINISTRATIVE PROCESSES RELATING TO IMPLEMENTING THE NEW MANAGEMENT PLAN	17
3.1 Granting New MFLs and Transferring Units and Licences.....	17
3.2 Payment of Fees By Instalment	17
APPENDICES	18
Appendix 1 – Allocation of Zone B Units to Zone A Licensees	18

OPPORTUNITY TO COMMENT

This paper was prepared to set out the proposed direction for licensing, entitlement allocation and related matters under a new management plan for the West Coast Rock Lobster Managed Fishery (the new Management Plan), which is expected to begin operation on 15 January 2013. It is one of two papers being released by the Department of Fisheries (the Department) for comment as part of consultation on the development of this legislation, and is designed to encourage public involvement in the changes to the management arrangements for the West Coast Rock Lobster Managed Fishery (the fishery).

In addition, a related paper proposing a harvest strategy and decision rules for setting zonal Total Allowable Commercial Catches (TACCs) for the fishery will be released for industry comment.

Comments about this discussion paper are sought from all stakeholders, including commercial and recreational fishers, relevant community interest groups, Government agencies and interested members of the public.

Once the public comments received on this discussion paper have been considered, the Minister for Fisheries (the Minister) will make decisions on the management arrangements for the fishery.

Although specific issues have been identified, your views are sought on any or all of the matters in the document of significance to you and/or your group.

To ensure your submission is as effective as possible, please:

- Make it clear and concise.
- List your points according to the topic sections and page numbers in this paper.
- Describe briefly each topic or issue you wish to discuss.
- State whether you agree or disagree with any or all of the information within each topic, or just what is of specific interest to you. Clearly state your reasons, particularly if you disagree, and give sources of information where possible.
- Suggest alternatives to address any issues that you disagree with.

Your comments would be appreciated by 31 March 2012, and should be marked to the attention of the Management, West Coast Rock Lobster, and addressed to:

Executive Director
Department of Fisheries
Locked Bag 39
Cloisters Square Post Office
PERTH WA 6850

PURPOSE AND SUMMARY OF RECOMMENDATIONS

The purpose of this paper is to set out the proposed direction for licensing, entitlement allocation and related matters under a new management plan for the fishery (the new Management Plan), which is expected to commence operation on 15 January 2013. It is one of two papers being released by the Department for comment as part of consultation on the development of this legislation.

A summary of the recommendations of this paper is below for your reference. Further information can be found in the relevant section.

Recommendation 1 – *That the current Management Plan be revoked immediately prior to the new Management Plan coming into operation.*

Recommendation 2 – *That the current zones be maintained under the new Management Plan, noting that should separate Zone B units be allocated to Zone A Managed Fishery Licence (MFL) holders, the possibility of changing the description of Zone A such that it would include only the Abrolhos Islands Area (i.e. Zone B would be an entirely separate zone, rather than being a subset of Zone A), needs to be considered. This would not affect existing rights as the boundary between Zone B and the Abrolhos Islands Area would not change, and a fisher's access to each zone would be recognised through their level of unit entitlement for each zone.*

Recommendation 3 – *That the capacity of each zone of the fishery be defined as the maximum quantity of rock lobster (in kilograms) that may be taken in that zone during the licensing period.*

Recommendation 4 –

- a) *That there be a generic West Coast Rock Lobster MFL to which units for multiple zones can be attached.*
- b) *That fishing be permitted in only one zone on any trip, noting that pots could be set in all zones authorised under the MFL(s) on which a boat is named.*
- c) *That where a boat is named on more than one MFL, fishing only be permitted to occur under one MFL on any trip.*

Recommendation 5 – *That the criteria for the grant of an MFL under the new Management Plan be that either:*

- *the person is the holder of a West Coast Rock Lobster MFL under the current Management Plan at a prescribed future date and the person applies for an MFL under the new Management Plan by a date specified in that legislation; or*
- *the person is:*
 - *“fit and proper” to hold a licence; and*
 - *able to demonstrate that immediately upon the grant of a licence, they would be able to transfer at least one unit of existing entitlement onto that authorisation.*

Recommendation 6 –

- a) *That those who hold a Zone B or Zone C MFL as at a future date to be prescribed in the new Management Plan be allocated a number of units under that plan which is equal to ten times their usual entitlement to fish in those zones under the current Management Plan as at that date. Essentially, this would mean that subject to permanent transfers of licences or entitlement, or forfeiture of units, each MFL holder's current share of Zone B or Zone C access will be reflected on their new MFL.*

- b) *That those who hold a Zone A MFL as at a future date to be prescribed in the new Management Plan be allocated a number of Abrolhos Islands units which is equal to ten times their usual Zone A entitlement under the current Management Plan as at that date. Essentially, this would mean that subject to permanent transfers of licences or entitlement, or forfeiture of units, each MFL holder's current share of Abrolhos Islands access will be reflected as on the new MFL.*
- c) *That for every permanent Zone A unit held at a future date to be prescribed in the new Management Plan, Zone A MFL holders be allocated 4.40 Zone B units (rounded to the nearest whole number according to standard rounding conventions).*

Recommendation 7 –

- a) *That the minimum operating holding be set at 600 units of usual and current entitlement. This would effectively maintain existing minimum operating requirements.*
- b) *That the minimum operating holding apply to the total number of units on the MFL, rather than the number for each zone.*
- c) *That the possibility of further reductions should be discussed once legislation is in place to allow compliance risks associated with very low minimum holdings to be mitigated.*
- d) *That consideration be given to a further exemption or other mechanisms to accommodate those MFLs currently permitted to operate below the minimum unit holding until such time as a longer-term decision on the minimum operating holding is made.*

Recommendation 8 – *That there should be no limit on the number of pots that may be used in the fishery.*

Recommendation 9 –

- a) *That fishing be permitted in Zone B and Zone C all year (i.e. no closed season) from 15 January 2013.*
- b) *That the new Management Plan be drafted to reflect the Abrolhos Islands season dates adopted in 2012 (once finalised).*

Recommendation 10 – *That the new Management Plan specify that WAFIC must be consulted before the plan is amended or revoked.*

Recommendation 11 –

- a) *That the new Management Plan provides for MFL fees to be paid in three instalments as follows:*
 - *15 January (25% of the total fee);*
 - *15 May (35% of the total fee); and*
 - *15 September (40% of the total fee).*
- b) *That a surcharge of 3.13% apply where a licensee elects to pay their access fee in instalments.*

SECTION 1 BACKGROUND

1.1 Moving to Individual Transferable Quotas (ITQs)

In 2008/09, in response to record low puerulus settlement, the Minister decided to manage the fishery to an explicit catch limit for the first time. The intention was to reduce the total catch from an expected level of around 9,000 tonnes to less than 7,800 tonnes. This outcome was successfully achieved.

In the 2009/10 season, this concept was expanded to include catch targets and limits for each zone of the fishery for the first and second halves of the season, with the intention of restricting the total catch to 5,500 tonnes +/- 10%. Although the desired catch outcomes were achieved, the result of applying these competitive TACCs was:

- a “race to fish”;
- high levels of uncertainty for industry; and
- Government micro-management to assist industry to optimise economic returns from the available catch.

In February 2010, the WA Fishing Industry Council (WAFIC) requested that the Minister move the fishery to quota management from the 2010/11 season. The Western Rock Lobster Council (WRLC) supported this change being introduced as soon as possible. Having consulted with the former Rock Lobster Industry Advisory Committee (RLIAC) and WAFIC regarding the management model that could be introduced for the 2010/11 season, the Minister decided to commence the transition to quota from 1 October 2010.

A key element of the new management arrangements was the allocation of individual catch limits to MFLs in proportion to the current entitlement of the licence at specified times during the licensing period.

With more explicit controls on catch and by curbing the “race to fish”, it was possible to relax certain other controls. For example, the unit value was increased to 0.5 pots per unit (from as low as 0.3 pots per unit in some zones at some times during the 2009/10 season), the fishing season was extended to 31 August and weekend closures were removed for the final months of the season.

The current licensing period, which commenced on 1 October 2011, has been extended to 14 January 2013 in response to requests from the WRLC for the quota period to start after the “whites” peak. Further changes to increase flexibility for industry have also been introduced. These include permitting fishing on all days during the season (no weekend or public holiday closures), extending the fishing season (fishing will now only be prohibited between 1 October and 14 November) and allowing Zone A MFL holders to return to fish in Zone B from 1 July 2012¹.

Despite the current management arrangements enabling industry to enjoy many of the benefits that are associated with ITQ systems, determination of the fishery capacity continues to be defined in terms of the number of pots that can be used in each zone and individual entitlements are still conferred as units with a value in pots (albeit with an overall catch limit dictated by the number of units). This means that catch limits (or quota) cannot be treated independently from

¹ At the time of writing this paper, the Minister was consulting with industry regarding possible changes to management arrangements for the Abrolhos Islands Area which would provide Zone A licensees with greater flexibility regarding returning to fish in Zone B.

rules relating to pot usage. This in turn does not allow the full range of management options available under an ITQ system to be implemented.

Implementing a new Management Plan for the fishery based around quotas being the primary management tool is the most appropriate way to complete the transition to a full ITQ system.

1.2 Licences and Entitlement Under the Current Management Plan

Under the *West Coast Rock Lobster Management Plan 1993* (the current Management Plan), the fishery is divided into three main management zones:

- Zone A (which includes Zone B and the Abrolhos Islands Area);
- Zone B; and
- Zone C.

The primary tool for limiting catch to sustainable levels has been the maximum number of pot lifts in each zone per licensing period. This has traditionally been achieved by:

- limiting the maximum number of pots that could be used in each zone (known as the “capacity” of the zone which in turn was expressed as the value of a unit of entitlement of a licence); and
- regulating the number of fishing days. This was initially achieved through closed seasons, but later included weekend and other closures.

In order to operate in the fishery, it is necessary to hold a West Coast Rock Lobster MFL with a specified minimum unit entitlement (currently 60 usual and current units). There are three classes of MFL based on the zones described above.

Since 2001, the extent to which a licence authorises the holder to fish has been defined by the number of units of entitlement associated with the licence. Each unit allows the licence holder (or persons acting for or on their behalf) to operate a specified number of pots. This is known as the “unit value”. Currently, the unit value is 0.5 pots per unit in all zones.

SECTION 2 NEW MANAGEMENT PLAN PROPOSALS

2.1 Revocation of the Current Management Plan

For the new Management Plan to come into operation on 15 January 2013, it will be necessary to revoke the current Management Plan. Under section 65(2) of the *Fish Resources Management Act 1994* (FRMA) and clause 21B of the current Management Plan, WAFIC must be consulted regarding the revocation (N.B. the statutory consultation requirements for new plans are not the same as for amending or revoking existing ones).

Recommendation 1 –

That the current Management Plan be revoked immediately prior to the new Management Plan coming into operation.

2.2 Zones of the Fishery

As discussed above, the fishery is divided into three main fishing zones (noting that Big Bank, which is currently closed, is within Zone B). These zones are described in the current Management Plan as follows:

- Zone A – The whole of the waters between 21°44' south latitude and 30° south latitude including the Abrolhos Islands Area;
- Zone B – The whole of the waters between 21°44' south latitude and 30° south latitude excluding the Abrolhos Islands area; and
- Zone C – The whole of the waters between 30° south latitude and 34°24' south latitude excluding all waters on the south coast east of 115°08.091' east longitude.

In addition, the current Management Plan defines the Abrolhos Islands Area as:

“The whole of the waters bounded by a line commencing from the intersection of 27°30' south latitude and 112°50' east longitude and extending in an easterly direction to the intersection of 27°30' south latitude and 113°37' east longitude; thence south- easterly to the intersection of 28°45' south latitude and 114°9'52.18" east longitude; thence south-easterly to the intersection of 29°30' south latitude and 114°30' east longitude; thence west to 112°50' east longitude; thence north to the starting point.”

Zones have played an important role in ensuring that effort is distributed across the fishery under input controls. An independent report commissioned by RLIAC in 2009 recommended that under an optimal ITQ system, the fishery should be managed as a single entity (i.e. that zones should be removed) in order to minimise management costs. This position was not supported in a subsequent discussion paper prepared by the Department for WAFIC in December 2009. In that paper, the Department expressed concern about the risk of serial depletion of the breeding stock should zone boundaries be removed and recommended that zones be retained pending a review after five years.

The implementation of a new Management Plan provides a logical opportunity to again consider the zones issue.

Since explicit TACCs have been set for each zone, there have been annual debates within industry and between industry and Government regarding the proportion of the TACC allocated to each zone. It has been suggested that these debates could be avoided if zones were removed. Although this may be true to an extent, there are a number of issues that need to be considered.

2.2.1 Biological Considerations

An independent review of the stock assessment methods and model for the fishery undertaken in 2010 has resulted in the assessment of the status of the rock lobster stock now being carried out using four breeding stock management areas (BSMAs). This recognises the more complex nature of the breeding stock in the north of the fishery. The four BSMAs are:

- BSMA 1 – Deepwater areas (>20fm) of the fishery north of 28° south latitude. This encompasses the northern Abrolhos and Big Bank regions.
- BSMA 2 – Deepwater areas (>20fm) of the fishery between 28° south latitude and 30°S. This encompasses southern Abrolhos and offshore Geraldton and Dongara areas.
- BSMA 3 – Shallow Abrolhos Islands (<20 fm around the Abrolhos Islands)
- BSMA 4 – Deepwater areas (>20fm) of the fishery south of 30° south latitude. This encompasses all C zone deepwater.

The Department is currently working with industry to develop a harvest strategy for the fishery that is consistent with the four BSMAs. Although it would be possible to apply such a harvest strategy in the absence of zones, it would likely complicate, rather than simplify, management processes. For example, in order to achieve the agreed biological objective(s) for each BSMA, it may be necessary to:

- set explicit catch limits for each BSMA, thereby returning to a “race to fish” and Government micro-management; or
- implement specific biological controls for each BSMA (e.g. size limits) to restrict the harvest rate in each BSMA so that biological objectives are achieved.

Such management options would effectively amount to the re-creation of zones, but without the structure and certainty provided under the current management arrangements. In addition, annual debates about catch limits would not necessarily be avoided because of the likely need to restrict catches in each BSMA to a level that achieves biological objectives.

Alternatively, in the absence of catch limits being set relevant to each BSMA, it would be necessary to set an extremely conservative TACC so that the biological objective(s) for each BSMA could be met regardless of effort shifts within the fishery.

2.2.2 Allocation Issues

As mentioned above, it has been suggested that removing zones would simplify the annual TACC-setting process as it would eliminate arguments about the proportion of the TACC allocated to each zone. However, it would significantly complicate the initial process of allocating units of entitlement under the new Management Plan.

This is because the number of units allocated for each zone is not equal and historically, even where unit values have been the same between zones, the catch per unit has not been equal. Also, in more recent times, the unit value and catch limits associated with a unit have differed by zone. As a result, the economic return derived per unit is not the same between zones and this has been reflected in the market. Therefore, to preserve equity between fishers, it would be inappropriate to simply permit all licensees to operate throughout the entire fishery with their existing number of units. Instead, an entirely new allocation process which ensured that the number of units granted to each licensee reflected their current position relative to all other licence holders would need to occur.

Recommendation 2 –

That the current zones be maintained under the new Management Plan, noting that should separate Zone B units be allocated to Zone A MFL holders (see below), the possibility of changing the description of Zone A, such that it would include only the Abrolhos Islands Area (i.e. Zone B would be an entirely separate zone, rather than being a subset of Zone A), needs to be considered. This would not affect existing rights as the boundary between Zone B and the Abrolhos Islands Area would not change, and a fisher's access to each zone would be recognised through their level of unit entitlement for each zone.

2.3 Fishery Capacity

Consistent with the shift to an ITQ system, it is proposed that the capacity of each zone of the fishery should be defined as the maximum quantity of rock lobster (in kilograms) that can be taken from that zone during each licensing period (i.e. the TACC) rather than as the maximum number of pots that can be operated as is currently the case.

Importantly, the harvest strategy for the fishery will also include decision rules for zonal TACC/capacity setting.

Recommendation 3 –

That the capacity of each zone of the fishery be defined as the maximum quantity of rock lobster (in kilograms) that may be taken in that zone during the licensing period.

2.4 One Licence, Three Classes of Unit

Although there is provision in the current Management Plan for the zones on Zone A and Zone B licences to be varied under certain circumstances – effectively where there is to be a direct “zone swap” – it is not possible to hold units for multiple zones on a single MFL. This is because the legislation creates three classes of MFL and sets the maximum number of units for each zone.

With the introduction of individual catch limits, there is an incentive for industry to increase economic efficiency. This has seen the number of boats operating in the fishery declining from 461 in 2007/08 to 282 in 2009/10.

In the past, the Department has received a small number of requests to operate two MFLs from one boat. These requests have normally been made by holders of both a Zone A and a Zone B MFL wishing to operate only one boat during the “whites”.

Interest in operating more than one MFL from the same boat has increased with the move to individual catch limits. Although there is nothing within the current Management Plan which explicitly prevents this, long-standing policy has been to not permit a boat to be named on more than one MFL because it complicates compliance by making it more difficult to determine under which licence an offence has occurred. This can be overcome by prohibiting fishing under more than one MFL on each trip. At the time of writing this paper, consultation was underway with WAFIC regarding an amendment to the current Management Plan to explicitly prohibit fishing being carried out under more than one MFL on the same trip.

The need for a boat to be named on more than one MFL could be reduced by allowing units for multiple zones to be held on a single authorisation. That is, MFLs would no longer be zone specific. A similar system currently operates in the Abalone Managed Fishery where units of entitlement for multiple zones may be held on the same licence.

Perhaps the main risk associated with allowing units for multiple zones to be held on the same licence is that there could be “slippage” of quota between zones. To reduce the potential for this to occur, fishing could only be permitted in one zone per trip (though pots could be in the water in more than one zone at the same time). The risk of “slippage” could also be mitigated through an appropriate compliance program.

Recommendation 4 –

- a) *That there be a generic West Coast Rock Lobster MFL to which units for multiple zones can be attached.*
- b) *That fishing be permitted in only one zone on any trip, noting that pots could be set in all zones authorised under the MFL(s) on which a boat is named.*
- c) *That where a boat is named on more than one MFL, fishing only be permitted to occur under one MFL on any trip.*

2.5 Criteria for the Grant of an MFL

At the time of writing this paper, there were 589 MFLs granted under the current Management Plan. It is intended that those who hold such MFLs at a prescribed future date (e.g. the date on which the new Management Plan is published in the *Government Gazette*) will be eligible to be granted an MFL under the new Management Plan. The specific date to be included in the criteria for the grant of an MFL is expected to be determined as the legislation drafting process progresses and timeframes for the transition to the new Management Plan become clearer. This date will be included in the draft management plan, which will be released for statutory consultation two months prior to gazettal. The intent of this proposed criterion is that subject to MFL transfers, those who currently hold licences to operate in the fishery will be eligible for an authorisation under the new Management Plan.

However, current MFL holders will need to specifically apply for a new licence; the transition from one authorisation to the other will not occur automatically.

There will need to be a legislated end date for receipt by the Department of applications for MFLs under the above criterion. This is because entitlement (quota units) will be allocated to MFLs (see below for proposed allocation methods). The value of each unit (number of kilograms) is determined by dividing the TACC for each zone by the number of units issued for that zone. Even with a deadline for lodging applications, it is likely that it will be necessary to specifically legislate unit values for the first licensing period of the new Management Plan so that MFL holders have a clear understanding of the quantity of lobster they can catch when their licence is issued.

Another issue that must be recognised when moving to the new Management Plan is the need, through either legislative or administrative means, to give effect to the intent of section 224 of the FRMA. This section requires that the Chief Executive Officer of the Department must suspend an authorisation for 12 months where three convictions “black marks” have been recorded against the licence in a 10-year period.

In addition to the above criterion, the current Management Plan was recently amended to allow MFLs to be granted where the applicant is “fit and proper” and can immediately transfer at least one unit of entitlement onto a licence. It is proposed that this will continue under the new Management Plan.

Recommendation 5 –

That the criteria for the grant of an MFL under the new Management Plan be that either:

- *the person is the holder of a West Coast Rock Lobster MFL under the current Management Plan at a prescribed future date and the person applies for an MFL under the new Management Plan by a date specified in that legislation; or*
- *the person is:*
 - *“fit and proper” to hold a licence; and*
 - *able to demonstrate that immediately upon the grant of a licence, they would be able to transfer at least one unit of existing entitlement onto that authorisation.*

2.6 Allocation of Units to Licences

Access to the fishery has already been allocated under the current Management Plan so it is important that the new Management Plan recognises this and preserves the relative positions of licensees. However, in order to deal with issues surrounding the grant of Zone B units to Zone A licensees (see below) it is proposed that there be ten times the number of units under the new plan (plus a new allocation of Zone B units to Zone A licensees), but that unit values be reduced to approximately a tenth of what they would have been if the existing number of units were maintained.

The proposal regarding multiplying the current number of units in the fishery by ten (plus new Zone B units allocated to Zone A licensees) would provide several advantages:

Firstly, it provides a mechanism to deal with allocating Zone B entitlement to Zone A licence holders who hold only one unit (see below). In addition it would:

- reduce the effect of rounding error when allocating Zone B units to Zone A MFL holders regardless of the number of Zone A units currently held;
- reduce the effect of rounding error when allocating TACCs; and
- allow industry to trade in smaller “parcels”. For example, the current catch limit associated with a Zone C unit is 102 kg. Multiplying the number of Zone C units by ten would reduce this to 10.20 kg. N.B. Actual future unit values will vary in accordance with the return to a 12-month licensing period and the need to ensure biological objectives are met.

It is therefore proposed that where an applicant for an MFL under the new Management Plan holds either a Zone B or Zone C licence under the current Management Plan, the number of Zone B or C units allocated to their new MFL(s) shall effectively be equal to the usual (permanent) entitlement of their existing MFL(s). Essentially this means that, subject to permanent transfers of licences or entitlement or forfeiture of units as a result of prosecution, a licensee’s existing share of the total number of Zone B or C units will be reflected on their MFL when it is first granted under the new Management Plan.

2.6.1 Allocation of Units to Zone A MFL Holders

For Zone A MFL holders, the entitlement allocation process is more complex because Zone A units confer an entitlement to fish in Zone B and an entitlement to fish in the Abrolhos Islands Area. Since individual catch limits were introduced, there has been increased interest from Zone A licensees in effectively separating these two entitlements. This has resulted in a system which is complex for the Department to manage and does not offer industry the full degree of flexibility possible under an ITQ system.

For some time, the Department has expressed the view that Zone A licence holders should be allocated separate Abrolhos Islands and Zone B units. This would provide the additional flexibility sought by industry. It is therefore proposed that this change be introduced under the new Management Plan.

2.6.2 Allocation of Abrolhos Islands Units to Zone A MFL Holders

Similarly to Zone B and Zone C MFL holders, it is appropriate that the current level of access to the Abrolhos Islands Area be recognised. Therefore, it is proposed that Zone A MFL holders be allocated a number of Abrolhos Islands units under the new Management Plan which is effectively equal to the usual Zone A unit entitlement under the current Management Plan. As with Zone B and C MFLs, the intention is that subject to permanent transfers of licences or entitlement, or forfeiture of units, a licensee's existing share of Abrolhos Islands entitlement will be reflected on their new authorisation.

2.6.3 Principles Underpinning the Allocation of Zone B Units to Zone A Licence Holders

The proposed allocation of Zone B units to Zone A licence holders has been based on the following principles:

- preservation of equity between licensees with regard to their relative share of access to the total Zone B allocation; and
- that there be only one class of Zone B unit. That is, the “new” Zone B units allocated to Zone A MFL holders shall be identical to the Zone B units allocated to Zone B MFL holders.

2.6.4 Changes in the Number of Zone A and B Units Over Time and the Allocation Process

As discussed above, the current Management Plan provides for Zone A and Zone B licences to be varied to effect a “zone swap”. The specific rules relating to such variations have changed over time and consequently so too has the number of units in each zone.

The number of units in all zones has also varied because of factors like forfeiture of units where a relevant offence has occurred.

It is not practical to take account of these changes in the allocation process. Therefore, the proposed allocation of Zone B units to Zone A MFL holders has been based on the current number of units in each zone.

Establishing a generic West Coast Rock Lobster MFL to which units from all zones could be attached would remove the need for provisions in the new Management Plan permitting “zone swaps”.

2.6.5 Method for Determining the Number of Zone B Units Allocated to Zone A MFL Holders

Since 2009/10, the total Zone B TACC has been divided into two components. These components have been based on the historical proportion of the total Zone B catch taken during the periods:

- 15 November – 14 March (when Zone B has historically been accessed by both Zone A and Zone B MFL holders); and
- 15 March – 30 June (when only Zone B licence holders have historically fished in Zone B).

Since individual catch limits were introduced in 2010/11, the Zone B TACC based on each of these periods has been divided equally amongst all units (whether on Zone A or Zone B MFLs) that have traditionally conferred access to Zone B during the relevant period.

Specifically, the component of the TACC based on the 15 November – 14 March period has been divided equally amongst both Zone A and Zone B units, while the component of the TACC based on the 15 March – 30 June period has been allocated only to Zone B units.

The same approach has been used to develop the proposed allocation of Zone B units to Zone A licensees under the new Management Plan.

Specifically, 36.22% of the Zone B catch has historically been taken by Zone B MFL holders during the period between 15 March and 30 June. The remaining 63.78% has been taken by both Zone A and Zone B MFL holders (between 15 November and 14 March).

There are currently 18,630 Zone A units and 14,898 Zone B units in the fishery. Therefore, at times when Zone B can be accessed by both Zone A and B MFL holders, a total of 33,528 units can be operated. All of these units have historically permitted the same number of pots to be used in Zone B. More recently, these units have also been treated equally when allocating the 15 November – 14 March based component of the Zone B TACC. It is therefore appropriate that as part of the Zone B unit allocation process, when considering the period when both Zone A and Zone B MFLs have historically accessed Zone B, all existing units be treated equally.

Of the units conferring access to Zone B when the zone can be fished by both Zone A and Zone B MFL holders, 55.57% are on Zone A licences and 44.43% are on Zone B licences. This means that of the total Zone B allocation, units held by Zone A licensees confer the following level of access:

$$\begin{aligned} \text{Access to Total Zone B Allocation to Zone A MFLs} &= 55.57\% \times 63.78\% \\ &= 35.44\% \end{aligned}$$

Similarly, Zone B units confer the following level of access:

$$\begin{aligned} \text{Access to Total Zone B Allocation to Zone B MFLs} &= (44.43\% \times 63.78\%) \\ &\quad + 36.22\% \\ &= 64.56\% \end{aligned}$$

Based on the 14,898 Zone B units under the current Management Plan representing 64.56% of total Zone B access, approximately 8178 units (noting the effect of rounding errors associated with allocating units to each individual MFL) would need to be allocated to Zone A MFL holders to maintain their existing proportion of Zone B access.

It is appropriate that these new Zone B units be allocated to Zone A MFL holders proportional to their level of usual Zone A entitlement under the current Management Plan. This would result in 0.44 Zone B units being allocated (rounded to the nearest whole unit) for each Zone A unit currently held. This would have a particularly significant impact on licensees with only one Zone A unit, because applying normal rounding conventions would result in their current Zone B access entitlement not being recognised.

For this reason, as discussed above, it is proposed to multiply the total number of units in the fishery by ten, such that the number of Zone B units allocated to current Zone B MFL holders would be 148,980 units meaning that Zone A licensees would be allocated 4.40 Zone B units for each Zone A unit currently held².

For example, if a Zone A licensee currently holds 100 units of usual entitlement, provided they do not transfer or forfeit any of these units, they would be allocated 1000 Abrolhos Islands units and 440 Zone B units under the new Management Plan.

² Note that the number of Zone B units allocated to Zone A MFLs would be determined according to normal rounding conventions. This will result in some allocations being rounded up and some being rounded down as has been the case when determining the number of pots that can be used under a given unit entitlement.

A copy of a spreadsheet illustrating the calculation of the allocation of Zone B units for Zone A MFL holders is at Appendix 1.

Recommendation 6 –

- a) *That those who hold a Zone B or Zone C MFL as at a future date to be prescribed in the new Management Plan be allocated a number of units under that plan which is equal to ten times their usual entitlement to fish in those zones under the current Management Plan as at that date. Essentially, this would mean that subject to permanent transfers of licences or entitlement, or forfeiture of units, each MFL holder's current share of Zone B or Zone C access will be reflected on their new MFL.*
- b) *That those who hold a Zone A MFL as at a future date to be prescribed in the new Management Plan be allocated a number of Abrolhos Islands units which is equal to ten times their usual Zone A entitlement under the current Management Plan as at that date. Essentially, this would mean that subject to permanent transfers of licences or entitlement, or forfeiture of units, each MFL holder's current share of Abrolhos Islands access will be reflected as on the new MFL.*
- c) *That for every permanent Zone A unit held at a future date to be prescribed in the new Management Plan, Zone A MFL holders be allocated 4.40 Zone B units (rounded to the nearest whole number according to standard rounding conventions).*

2.7 Minimum Number of Units Needed to Operate in the Fishery

Recent discussions between the Department and the WRLC have resulted in the minimum number of units required in order to operate a licence being reduced from 63 units of usual (permanent) and current (temporary) entitlement to 60 units of usual (permanent) and current (temporary) entitlement. Considerations around the future of the minimum operating holding are likely to be ongoing, but in the meantime, and for the purposes of the new Management Plan it is proposed that the minimum operating holding be set at 600 units of usual (permanent) and current (temporary) entitlement. This effectively maintains the existing minimum operating requirements, but this would apply to the total number of units on a licence, rather than by zone.

It should be noted that to date, discussions with the WRLC on the minimum number of units needed to operate assumed continuation of the current “zone-specific MFL” scenario. If the proposal to move to a generic West Coast Rock Lobster MFL as discussed above were adopted, further consideration would need to be given to issues that might arise if there were a significant reduction in the minimum operating holding. In particular, the possibility of licensees operating with a very low total number of units spread across more than one zone would need to be considered.

The implication for access to camps at the Abrolhos Islands arising from a shift to a minimum operating holding that applies across zones will also need to be taken into account. This is relevant to the development of new lease arrangements for the Abrolhos Islands, but is not a rock lobster management issue. Hence it is not addressed in this paper.

It is recognised that during the last two licensing periods, a number of MFLs have been allowed to operate below the minimum operating holding under exemptions. It has always been the Department's intention that these MFLs would ultimately need to comply with legislated minimum operating holdings. However, it may not be appropriate to expect these licensees to obtain 600 usual and current units by 15 January 2013 given the ongoing discussions between the Department and industry regarding minimum operating holdings. Consideration will need

to be given to further exemptions or other mechanisms to permit the continued operation of these MFLs pending the resolution of the minimum holding issue.

Recommendation 7 –

- a) *That the minimum operating holding be set at 600 units of usual and current entitlement. This would effectively maintain existing minimum operating requirements.*
- b) *That the minimum operating holding apply to the total number of units on the MFL, rather than the number for each zone.*
- c) *That the possibility of further reductions should be discussed once legislation is in place to allow compliance risks associated with very low minimum holdings to be mitigated.*
- d) *That consideration be given to a further exemption or other mechanisms to accommodate those MFLs currently permitted to operate below the minimum unit holding until such time as a longer-term decision on the minimum operating holding is made.*

2.8 Pot Usage Limits

The independent review commissioned by RLIAC in 2009 recommended that the maximum number of pots that could be operated from a boat be restricted to 200 for the first three years of quota implementation. The panel further recommended that the maximum pot usage limit be either increased or removed entirely after three years subject to monitoring of the number of pots being used during that period.

In a subsequent paper provided to WAFIC in December 2009, the Department argued that restricting pot usage to a maximum of 200 pots per boat would potentially disadvantage larger quota holders. In addition, it would increase management costs because of the need to enforce the rule.

As discussed above, under the current Management Plan, the capacity of each zone of the fishery is currently defined as the maximum number of pots that may be used which in turn is reflected as the value of each unit of entitlement for that zone. This means that restrictions on pot numbers are integral to the operation of this legislation. Further, these restrictions must be proportional to the number of units held.

During 2010 when the Department consulted with RLIAC and WAFIC regarding the management model to commence the transition to quota, industry expressed concern about significantly increasing the number of pots able to be used in the fishery. These concerns primarily related to the possibility of gear being used to “hold ground” and possible environmental issues. The result was a modest increase in the unit value to 0.5 pots per unit.

Introducing a new, output-based management plan provides the opportunity to remove the direct link between pots and quota and therefore enables a broader range of management options to be considered.

There appears to be continued concern within industry about the potential for the removal of rules relating to pot usage to result in:

- loss of product quality resulting from large numbers of pots being set for extended periods; and
- increases in the volume of catch being landed, resulting in price reductions.

There may also be community concern about potential environmental impacts, including interaction with protected species. In addition, there may be concerns about large numbers of commercial pots being placed near recreational fishing gear.

Experience since the 2010/11 season suggests that in many cases fishers are not operating with their maximum pot allocation. Although reductions in catch rates associated with the effect of low puerulus settlement is likely to result in increased pot usage, it also appears that fishers and receivers are rapidly adjusting to the quota environment by balancing their costs and revenue to maximise profits. This would seem to mitigate against using more gear than is necessary to take the quota in the most economically efficient manner. While this may result in some fishers deciding to set large numbers of pots at certain times of the year (e.g. some fishers may find it most profitable to take all of their quota during the “whites”), the length of time for which this could occur would be limited by the cap on catch.

Put simply, removing pot usage restrictions would not mean that pot lifts were unconstrained, as a variety of non-legislative forces moderate fishers’ gear usage.

Regarding potential environmental implications, the fishery has previously demonstrated its ability to operate sustainably in areas such as the Abrolhos Islands. It also has a proven record of adopting strategies to minimise its environmental impact, such as the use of Sea Lion Exclusion Devices and the prohibition on the use of plastic bait bands (this is a statewide prohibition initiated by the West Coast Rock Lobster Managed Fishery). The removal of pot usage limits would not prevent further strategies being adopted by industry or Government should future concerns arise about the environmental impact of any aspect of the fishery’s operation.

Therefore, to maximise flexibility for industry and reduce management costs, the Department continues to support removing the restriction on the maximum number of pots able to be used in the fishery. Should a limit be maintained, the most equitable approach would be for the pot limit to be proportional to the total number of quota units held (for all zones). For example, it could be that 0.1 pots may be used for each unit of quota on a licence (noting the proposal to multiply the number of units in the fishery by ten). However, it should be noted that the Department does not support, and will not consider, a management framework whereby pots and quota could be transferred between licences independently. This would significantly complicate the management framework and would be inconsistent with the shift to a full quota system.

Recommendation 8 –

That there should be no limit on the number of pots that may be used in the fishery.

2.9 Fishing Season

In the 2010/11 licensing period, the fishing season in all zones was extended to 31 August (noting that the Abrolhos Islands Area did not open until 15 March). During the current licensing period, Zone A and Zone B will be closed from 1 October 2012 until 14 November 2012. Currently, the Abrolhos Islands season will operate between 15 March 2012 and 30 June 2012.

Both RLIAC’s independent panel and the Department have previously supported fishing being permitted in Zone B and Zone C all year (no closed season), but have acknowledged the need for season extensions in the Abrolhos Islands to be given special consideration.

The Department remains supportive of permitting fishing year-round in Zone B and Zone C. With regard to the season for the Abrolhos islands Area, this is a matter which should be discussed further with industry at the conclusion of the coming season. In the first instance, it is suggested that the new Management Plan be drafted to reflect the dates of the 2012 season (once finalised). Any subsequent extension or contraction of the 2013 season would then be implemented through an amendment to the legislation.

Recommendation 9 –

- a) *That fishing be permitted in Zone B and Zone C all year (i.e. no closed season) from 15 January 2013.*
- b) *That the new Management Plan be drafted to reflect the Abrolhos Islands season dates adopted in 2012 (once finalised).*

2.10 Consultation Regarding Amending or Revoking the New Management Plan

The FRMA requires that a management plan specifies an advisory committee or advisory committees or a person or persons who must be consulted before the plan is amended or revoked. The current Management Plan requires that WAFIC must be consulted under these circumstances. It is proposed that WAFIC also be specified as the body to be consulted before the new Management Plan is amended or revoked.

Recommendation 10 –

That the new Management Plan specify that WAFIC must be consulted before the plan is amended or revoked.

SECTION 3 ADMINISTRATIVE PROCESSES RELATING TO IMPLEMENTING THE NEW MANAGEMENT PLAN

3.1 Granting New MFLs and Transferring Units and Licences

Even though the new Management Plan is not scheduled to come into operation until 15 January 2013, so that industry can commence fishing on that date, it will be necessary to enable MFLs to be granted and transfers to occur in advance. It is therefore intended to publish the new Management Plan in the *Government Gazette* as close as possible to 1 September 2012. It will then be possible for MFLs to be granted under the legislation and for transfer applications to be processed.

Please note that once the new Management Plan is published in the *Government Gazette*, it will be necessary to prohibit transfers of MFLs and permanent unit transfers under the existing legislation. However, it is intended that temporary transfers of units under the current Management Plan will continue to be permitted until it is revoked.

3.2 Payment of Fees By Instalment

The *Fish Resources Management Regulations* 1995 provide for management plans to enable licence fees to be paid in up to three instalments. The current Management Plan provides for three instalments with the first and second instalments each being 25% of the total fee and the third being the remaining 50%. A surcharge of 3.13% of the total fee applies where a licensee elects to pay by instalments. It is considered appropriate that this surcharge continues under the new Management Plan.

Noting that the new Management Plan is to commence operation on 15 January 2013, the first licence fee instalment would fall due on or before this date. The industry should be aware that to permanently transfer units and MFLs under the new legislation (e.g. in preparation for the new licensing period), the full licence fee will need to have been paid.

It is suggested that the remaining two instalments fall due on 15 May and 15 September. It is proposed that the instalment amounts be set at 25%, 35% and 40% of the total fee respectively.

Recommendation 11 –

a) *That the new Management Plan provides for MFL fees to be paid in three instalments as follows:*

- *15 January (25% of the total fee);*
- *15 May (35% of the total fee); and*
- *15 September (40% of the total fee).*

b) *That a surcharge of 3.13% apply where a licensee elects to pay their access fee in instalments.*

APPENDICES

Appendix 1 – Allocation of Zone B Units to Zone A Licensees

Existing Zone A Units	Existing Zone B Units	
18630	14898	
Historical Proportion of Zone B 15 November - 14 March		63.78%
Historical Proportion of Zone B 15 March - 30 June		36.22%
Proportion of Total Units to each Licence Type		
Zone A	35.44%	
Zone B (15 November - 14 March)	28.34%	
Zone B (15 March - 30 June)	36.22%	
Total	100.00%	
Proportion of Total Units Allocated to Zone B Licensees =		64.56%
Total Zone B Units (Assuming 14898 units = 64.56%) =		23076
Total New Zone B Units to Zone A Licensees =		8178
For Every Zone A Unit Zone B Units Allocated =		0.44
Zone B Units Allocated Per Zone A Unit Assuming X10 =		4.40