

Fisheries Management (Ocean Trap and Line Share Management Plan) Regulation 2006

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New South Wales

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New South Wales

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New South Wales

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

IAN MACDONALD, M.L.C., Minister for Primary Industries

1 Name of Regulation

This Regulation is the *Fisheries Management (Ocean Trap and Line Share Management Plan) Regulation 2006*.

2 Commencement

This Regulation commences on 5 February 2007.

3 Ocean Trap and Line Share Management Plan

The *Ocean Trap and Line Share Management Plan* set out in the Appendix to this Regulation has effect.

Appendix

(Clause 3)

Part 1 Preliminary

1 Name of Plan

This is the *Ocean Trap and Line Share Management Plan*.

2 Definitions

(1) In this Plan:

endorsement means an endorsement on a commercial fishing licence that authorises the taking of fish in the fishery.

endorsement holder means a person who holds a commercial fishing licence that

has an endorsement.

fishery means the ocean trap and line fishery (as described in Schedule 1 to the Act).

ocean trap and line fishing business means a fishing business the components of which include shares in the fishery.

ocean waters has the meaning given by Schedule 1 to the Act.

Supporting Plan means the *Fisheries Management Supporting Plan* as set out in the Appendix to the *Fisheries Management (Supporting Plan) Regulation 2006*.

the Act means the *Fisheries Management Act 1994*.

(2) Notes used in this Plan do not form part of the Plan.

Part 2 Objectives of Plan

3 Objectives, performance indicators and triggers for review

- (1) The objectives of this Plan are set out in Column 1 of the Table to this clause.
- (2) For the purposes of section 57 (2) (a) of the Act, the performance indicator in relation to each objective of this Plan is set out in Column 2 of the Table to this clause next to the objective concerned.
- (3) For the purposes of section 57 (2) (b) of the Act, a review of this Plan is required in the circumstances provided for in Column 3 of the Table to this clause next to the objective and performance indicator concerned.
- (4) In the Table:

key secondary species means a species of fish listed as a key secondary species of fish in Table 2 to Schedule 1.

primary species means a species of fish listed as a primary species of fish in Table 1 to Schedule 1.

secondary species means a species of fish that are retained in the fishery but which is not a primary species or a key secondary species.

Table

Column 1	Column 2	Column 3
Objective	Performance indicator	Trigger for review

1	<p>Contribute, in conjunction with other fishing regulatory controls (as defined in section 7A of the Act), to managing the impacts of the fishery on the environment and to ensuring ecologically sustainable development</p>	<p>Reduction in the estimated quantity of the trap and line catch (by method) which is discarded</p>	<p>The Director-General is satisfied that the estimated quantity of discards for any observed method increases between consecutive observer surveys</p>
		<p>No new primary species or key secondary species with an exploitation status is classified as “overfished” or “recruitment overfished” by the Department</p>	<p>On the basis of resource assessment frameworks approved by the Director-General, the exploitation status of a primary species or key secondary species is changed to “overfished” or “recruitment overfished” by the Department</p>
		<p>Total annual landings of all secondary species taken in the fishery as a percentage of the total annual landings in the fishery remains at 15% or less</p>	<p>The Director-General is satisfied that the contribution of secondary species to total annual landings exceeds 15% in any 2 consecutive years</p>
		<p>No interactions between the fishery and any threatened species, population or ecological community that are likely to threaten the survival of a species, population or ecological community</p>	<p>Any interaction between the fishery and any threatened species, population or ecological community reported by endorsement holders in the fishery or observed during an observer survey that is likely to threaten the survival of a threatened species, population or ecological community, as determined by the Director-General on advice from relevant experts</p>

	No interactions between the fishery and protected fish that are likely to threaten the survival of protected fish	On a biennial review undertaken by the Department of interactions between the fishery and protected fish reported by endorsement holders in the fishery or observed during an observer survey, the Director-General, on advice from relevant experts, determines that the level of these reported interactions is likely to threaten the survival of the protected fish
2	Contribute, in conjunction with other fishing regulatory controls (as defined in section 7A of the Act), to promoting viable commercial fishing	There are net returns to the fishery The Director-General is satisfied that the gross value of production of the fishery has not exceeded the sum of indicative industry operational costs and government management costs relevant to the fishery for 3 consecutive years

Part 3 Description of fishery

Note 1—

The ocean trap and line fishery consists of the following (as described in Schedule 1 to the Act):

- (a) the use of a fish trap to take fish from ocean waters,
- (b) the use of a line with hooks attached to take fish from ocean waters,
- (c) the use of a spanner crab net to take spanner crabs from ocean waters that are north of a line drawn due east from Korogoro Point (Hat Head).

Note 2—

Ocean waters is defined in Schedule 1 to the Act as waters east of the natural coast line. However, for the purposes of the fishery, ocean waters do not include the waters within 3 nautical miles of:

- (a) the high water mark on Lord Howe Island, or
- (b) Balls Pyramid.

A reference to ocean waters extends to ocean waters managed in accordance with the law of the State under an arrangement with the Commonwealth, but only while that arrangement has effect.

4 Classes of share

The following classes of share are available in the fishery:

- (a) Ocean trap and line—line fishing western zone shares,
- (b) Ocean trap and line—line fishing eastern zone shares,

- (c) Ocean trap and line—demersal fish trap shares,
- (d) Ocean trap and line—school and gummy shark shares,
- (e) Ocean trap and line—spanner crab northern zone shares,
- (f) Ocean trap and line—spanner crab southern zone shares.

Note—

The classes of share correspond to the types of endorsement available.

5 Types of endorsement

(1) There are 6 types of endorsement available in the fishery, as follows:

- (a) Line fishing western zone endorsement,
- (b) Line fishing eastern zone endorsement,
- (c) Demersal fish trap endorsement,
- (d) School and gummy shark endorsement,
- (e) Spanner crab northern zone endorsement,
- (f) Spanner crab southern zone endorsement.

(2) **Line fishing western zone endorsement** A line fishing western zone endorsement authorises the holder to use a line to take fish from ocean waters that are west of the 183 metre (100 fathoms) depth contour.

Note—

See clauses 8 and 9 for endorsement conditions.

(3) Only shareholders who hold ocean trap and line—line fishing western zone shares are eligible to be given, or to nominate a person to be given, a line fishing western zone endorsement.

(4) **Line fishing eastern zone endorsement** A line fishing eastern zone endorsement authorises the holder to use a line to take fish from ocean waters that are east of the 183 metre (100 fathoms) depth contour.

Note—

See clause 8 for endorsement conditions.

(5) Only shareholders who hold ocean trap and line—line fishing eastern zone shares are eligible to be given, or to nominate a person to be given, a line fishing eastern zone endorsement.

(6) **Demersal fish trap endorsement** A demersal fish trap endorsement authorises the

holder to take fish from ocean waters by means of a fish trap set or used on the sea bed.

- (7) Only shareholders who hold ocean trap and line—demersal fish trap shares are eligible to be given, or to nominate a person to be given, a demersal fish trap endorsement.
- (8) **School and gummy shark endorsement** A school and gummy shark endorsement authorises the holder to take school and gummy sharks using a line from ocean waters south of a line drawn due east from the northern point of the entrance to Moruya River.
- (9) Only shareholders who hold ocean trap and line—school and gummy shark shares are eligible to be given, or to nominate a person to be given, a school and gummy shark endorsement.
- (10) **Spanner crab northern zone endorsement** A spanner crab northern zone endorsement authorises the holder to use a spanner crab net to take spanner crabs from ocean waters that are north of a line drawn due east from the southern breakwall at Yamba.
- (11) Only shareholders who hold ocean trap and line—spanner crab northern zone shares are eligible to be given, or to nominate a person to be given, a spanner crab northern zone endorsement.
- (12) **Spanner crab southern zone endorsement** A spanner crab southern zone endorsement authorises the holder to use a spanner crab net to take spanner crabs from ocean waters that are south of a line drawn due east from the southern breakwall at Yamba and north of Korogoro Point (Hat Head).
- (13) Only shareholders who hold ocean trap and line—spanner crab southern zone shares are eligible to be given, or to nominate a person to be given, a spanner crab southern zone endorsement.

Part 4 Minimum and maximum shareholdings

6 Minimum shareholding

- (1) For the purpose of section 67 (1) of the Act, the minimum shareholding in relation to a class of shares specified in the Table to this clause is, subject to subclause (2), the number of shares of that class specified in the Table next to the class concerned.

Note—

A person who does not hold the minimum shareholding required for a class of shares will not be eligible to be given, or to nominate another person to be given, an endorsement that authorises the taking of fish in respect of shares of that class. See sections 68 (3) (b) and 69 (2) of the Act.

- (2) During the transitional period, the minimum shareholding in relation to a class of shares is, if the shareholder is an original entitlement holder in relation to that class of

shares, 1 share of that class.

- (3) Subclause (2) ceases to apply in respect of a class of shares held by a shareholder if, after the commencement of this Plan and before the end of the transitional period, the shareholder transfers, assigns, forfeits or surrenders any shares of that class (in which case subclause (1) applies to the shareholder).
- (4) For the purposes of this clause, an **original entitlement holder**, in relation to a class of shares, is a person who:
 - (a) held shares of that class immediately before the commencement of this Plan, and
 - (b) was, immediately before the commencement of this Plan, eligible for an endorsement in the fishery (or to nominate a person to be given an endorsement in the fishery) on the basis of that shareholding.
- (5) At the end of the transitional period, the minimum shareholding requirements under subclause (1) apply to all shareholders in the fishery.
- (6) For the purposes of this clause, the **transitional period** is the period of 2 years and 6 months commencing on the commencement of this Plan.
- (7) A person who is issued with shares of a class as a consequence of a decision of the Share Appeal Panel on an appeal in relation to the issue of shares in the fishery and who would have been entitled to an endorsement in the fishery, or to nominate a person to be given an endorsement, if those shares had been issued before the commencement of this Plan, is taken to be an original entitlement holder in relation to that class of shares.
- (8) The shares relied on to meet the minimum shareholding requirement must all be a component of the same ocean trap and line fishing business.

Table

Class of shares	Minimum shareholding
Ocean trap and line—line fishing western zone shares	40
Ocean trap and line—line fishing eastern zone shares	40
Ocean trap and line—demersal fish trap shares	40
Ocean trap and line—school and gummy shark shares	40
Ocean trap and line—spanner crab northern zone shares	40

Ocean trap and line—spanner crab southern zone shares 40

7 Maximum shareholding

For the purpose of section 72 (1) of the Act, the maximum shareholding is 40% of the total number of shares in the fishery at the commencement of this Plan.

Part 5 General requirements in relation to taking fish

8 Taking of school and gummy shark

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of a line fishing western zone endorsement and a line fishing eastern zone endorsement that the endorsement holder does not take school or gummy shark from ocean waters that are south of a line drawn due east from the northern point of the entrance to Moruya River.
- (2) This clause does not apply to an endorsement holder acting as authorised by a school and gummy shark endorsement.

9 Taking of deepwater species of fish

For the purposes of section 68 (6A) of the Act, it is a condition of a line fishing western zone endorsement that the endorsement holder does not take any of the following species of fish in the fishery:

- (a) blue eye trevalla (*Hyperoglyphe antarctica*),
- (b) ling (*Genypterus* spp.),
- (c) gemfish (*Rexea solandri*),
- (d) hapuka (*Polyprion oxygeneios*),
- (e) bass groper (*Polyprion americanus*).

10 Boat capacity restrictions

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not use a boat to take fish in the fishery if it has a length exceeding the maximum boat length specified in Column 1 of the Table to this clause.

Table

Column 1	Column 2
Maximum boat length	Exemption code
16 metres	OTL

- (2) Subclause (1) does not apply in respect of an original boat if:
 - (a) it is exempted from the maximum boat length requirement in accordance with an exemption criteria determined by the Director-General, and
 - (b) that exemption is noted on the fishing boat licence for the boat by the Minister using a code of a kind specified in Column 2 of the Table to this clause.
- (3) In this clause, an **original boat** means a boat that, immediately before the commencement of this Plan, was a component of an ocean trap and line fishing business.
- (4) For the purposes of this clause, the length of a boat is the length noted on the fishing boat licence for that boat.

11 Automated baiting machines prohibited

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not use an on-board automatic baiting machine in connection with taking fish in the fishery.
- (2) In this clause, an **automated baiting machine** means a machine with a mechanical system that automatically affixes bait on hooks or snoods (or both) to a line, so that there is no need to affix bait by hand at the time of setting fishing gear.

12 Taking of fish with the assistance of others

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not use a boat to take fish in the fishery with the assistance of more than 4 persons who do not hold the same type of endorsement to take fish as the endorsement holder.

Part 6 General

13 Adoption of Supporting Plan

For the purposes of section 57A (5) of the Act, the provisions of the Supporting Plan, as they relate to the fishery, and as in force from time to time, are adopted by this Plan.

14 Authorised amendments to Plan

For the purposes of section 64 of the Act, any amendment to this Plan is authorised.

Schedule 1 Primary and key secondary species

(Clause 3)

Table 1 Primary species

Common name	Scientific name
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Australian Bonito	<i>Sarda australis</i>
Banded Rockcod	<i>Epinephelus ergastularius</i>
Blue-eye trevalla	<i>Hyperoglyphe antarctica</i>
Gummy shark	<i>Mustelus antarcticus</i>
Leatherjacket spp.	various (Family: MONACANTHIDAE)
Rubberlip morwong	<i>Nemadactylus douglasii</i>
Silver trevally	<i>Pseudocaranx dentex</i>
Snapper	<i>Pagrus auratus</i>
Spanner crab	<i>Ranina ranina</i>
Yellowfin bream	<i>Acanthopagrus australis</i>
Yellowtail kingfish	<i>Seriola lalandi</i>

Table 2 Key secondary species

Common name	Scientific name
Bass groper	<i>Polyprion americanus</i>
Dolphin fish	<i>Coryphaena hippurus</i>
Gemfish	<i>Rexea solandri</i>
Hapuku	<i>Polyprion oxygeneios</i>
Jackass morwong	<i>Nemadactylus macropterus</i>
Mulloway	<i>Argyrosomus japonicus</i>
Pearl perch	<i>Glaucosoma scapulare</i>
Pigfish	<i>Bodianus unimaculatus</i>
Shark spp.	various
Spanish mackerel	<i>Scomberomorus commerson</i>
Spotted mackerel	<i>Scomberomorus munroi</i>
Sweep	<i>Scorpius lineolata</i>
Teraglin	<i>Atractoscion aequidens</i>
Wobbegong sharks	<i>Orectolobus ornatus</i> <i>Orectolobus maculatus</i>