

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

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New South Wales

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The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
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New South Wales

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



New South Wales

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:

drift line means a line which is attached to a float, buoy or similar device, not being a float, buoy or device which is:

- (a) held in the hand or attached to fishing gear held in the hand, or
- (b) secured in any other manner which prevents it from drifting or floating freely.

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).

natural coast line has the same meaning as it has in the *Fisheries Management (General) Regulation 2010*.

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.

quota share—see clause 5A.

relevant fishing business number, in relation to the identification of fishing gear in Part 4A, means the number of the fishing business a component of which is the endorsement held by the person who set the net, trap or line concerned.

Secretary means the Secretary of the Department of Industry, Skills and Regional Development.

set line means any line not held in the hand, or not attached to fishing gear held in the hand, which is used or intended to be used for the purpose of taking fish, but does not include a drift line.

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*.

use, in relation to any fishing gear, includes set or lift the fishing gear (whether or not the fishing gear is baited).

wire trace line means a line that is made from or includes one or more metal strands.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Plan.

- (2) Notes used in this Plan do not form part of the Plan.
- (3) In this Plan, longitude and latitude coordinates are in WGS84 datum, unless otherwise provided.

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	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	Reduction in the estimated quantity of the trap and line catch (by method) which is discarded	The Secretary is satisfied that the estimated quantity of discards for any observed method increases between consecutive observer surveys
		No new primary species or key secondary species with an exploitation status is classified as "overfished" or "recruitment overfished" by the Department	On the basis of resource assessment frameworks approved by the Secretary, the exploitation status of a primary species or key secondary species is changed to "overfished" or "recruitment overfished" by the Department

	<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 Secretary 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 Secretary on advice from relevant experts</p>
	<p>No interactions between the fishery and protected fish that are likely to threaten the survival of protected fish</p>	<p>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 Secretary, on advice from relevant experts, determines that the level of these reported interactions is likely to threaten the survival of the protected fish</p>
<p>2 Contribute, in conjunction with other fishing regulatory controls (as defined in section 7A of the Act), to promoting viable commercial fishing</p>	<p>There are net returns to the fishery</p>	<p>The Secretary 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</p>

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,
- (g) Ocean trap and line—spanner crab quota shares,
- (h) Ocean trap and line—bass grouper quota shares,
- (i) Ocean trap and line—blue-eye trevalla quota shares,
- (j) Ocean trap and line—gemfish quota shares,
- (k) Ocean trap and line—hapuku quota shares,
- (l) Ocean trap and line—pink ling quota shares,
- (m) Ocean trap and line—bigeye ocean perch quota shares.

Note—

The classes of shares referred to in paragraphs (a)–(f) correspond to the types of endorsements available in the fishery.

The shares referred to in paragraphs (g)–(m) were issued as further classes of shares under section 71A of the Act. See Part 3A of this Plan for provisions relating to those shares.

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 handline, rod (or pole) and line, set line or drift line to take fish from ocean waters that are west of the 183 metre (100 fathoms) depth contour.
- (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 handline, rod (or pole) and line, set line or drift line to take fish from ocean waters that are east of the 183 metre (100 fathoms) depth contour.
- (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 set 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 3A Quota management

5A New classes of shares

- (1) The following classes of shares are available in the fishery:
- (a) Ocean trap and line—spanner crab quota shares,
 - (b) Ocean trap and line—bass grouper quota shares,
 - (c) Ocean trap and line—blue-eye trevalla quota shares,
 - (d) Ocean trap and line—gemfish quota shares,
 - (e) Ocean trap and line—hapuku quota shares,
 - (f) Ocean trap and line—pink ling quota shares,
 - (g) Ocean trap and line—bigeye ocean perch quota shares.
- (2) These shares are created as a further class of shares under section 71A of the Act and are referred to in this Plan as **quota shares**.

5B Allocation of quota shares—first issue

- (1) A person is eligible to be issued with ocean trap and line—spanner crab quota shares if the person is an eligible shareholder in relation to those shares.
- (2) A person is an **eligible shareholder** in relation to ocean trap and line—spanner crab

quota shares if, on the relevant date, the person holds ocean trap and line—spanner crab northern zone shares or ocean trap and line—spanner crab southern zone shares.

- (3) The Minister is to determine the number of quota shares to be issued to each eligible shareholder under this clause.
- (4) The determination is to be made on the basis of an allocation formula set out in a notice published by the Secretary in the Gazette.
- (5) The allocation formula is also to be made available on the Department’s website.
- (6) The **relevant date** is the date specified as the relevant date in the notice published by the Secretary under subclause (4).

5BA Allocation of quota shares—second issue

- (1) A person is eligible to be issued with the quota shares specified in Column 1 of the Table to this clause if the person is an eligible shareholder in relation to those shares.
- (2) A person is an **eligible shareholder** in relation to a class of quota shares specified in Column 1 if, at 12 noon on 28 September 2018, the person holds shares of a class specified opposite in Column 2.
- (3) The Minister is to determine the number of quota shares to be issued to each eligible shareholder under this clause.
- (4) The determination is to be made on the basis of the allocation formula set out in Schedule 4.

Table Eligibility for quota shares

Column 1	Column 2
Quota shares	Existing shares
Ocean trap and line—bass grouper quota shares	Ocean trap and line—line fishing eastern zone shares
Ocean trap and line—blue-eye trevalla quota shares	Ocean trap and line—line fishing eastern zone shares
Ocean trap and line—gemfish quota shares	Ocean trap and line—line fishing eastern zone shares
Ocean trap and line—hapuku quota shares	Ocean trap and line—line fishing eastern zone shares
Ocean trap and line—pink ling quota shares	Ocean trap and line—line fishing eastern zone shares

Ocean trap and line—bigeye ocean perch
quota shares

Ocean trap and line—line fishing eastern zone
shares

5C Issue of quota shares

- (1) The Minister is to issue quota shares to eligible shareholders in accordance with a determination under clause 5B or 5BA for each class of quota shares.
- (2) The Minister must, as soon as practicable after issuing quota shares:
 - (a) notify each shareholder of the number of quota shares issued to the shareholder, and
 - (b) give each shareholder a statement in writing of any rights of appeal by the shareholder to the Share Appeal Panel.

5D Appeals to Share Appeal Panel

- (1) A person who has been issued with quota shares of a particular class may appeal to the Share Appeal Panel against the Minister's determination of the number of quota shares of that class issued to the person.
- (1A) However, a person may not appeal to the Share Appeal Panel against the Minister's determination of the number of quota shares of a particular class issued to the person if the person has transferred any of those quota shares.

Note—

A person to whom quota shares are transferred may not appeal under this clause.

- (2) When a person lodges an appeal, the quota shares issued to the person are shares that are **subject to appeal**.
- (3) The transfer of, or any other registrable dealing in, quota shares that are subject to appeal is not permitted.
- (4) On completion of an appeal, the Minister may cancel or issue shares in order to give effect to a decision of the Share Appeal Panel.
- (5) No compensation is payable by or on behalf of the State for the cancellation by the Minister of shares that are subject to appeal in order to give effect to a decision of the Share Appeal Panel.
- (6) For the purposes of section 90 (1) (e) of the Act, shares that are subject to appeal are to be registered as such on the Share Register.
- (7) Shares cease to be subject to appeal if:
 - (a) the appeal to the Share Appeal Panel is withdrawn, or

- (b) the appeal to the Share Appeal Panel is finalised and the Minister has done anything necessary to give effect to the decision of the Share Appeal Panel.

Note—

The Supporting Plan contains provisions relating to lodging an appeal to the Share Appeal Panel in relation to the issue of quota shares.

5E TAC determinations required to be made

- (1) A determination of the total allowable catch (a **TAC determination**) of each of the following species is required to be made:
- (a) spanner crab (*Ranina ranina*),
 - (b) bass grouper (*Polyprion americanus*),
 - (c) blue-eye trevalla (*Hyperoglyphe antarctica*),
 - (d) gemfish (*Rexea solandri*),
 - (e) hapuku (*Polyprion oxygeneios*),
 - (f) pink ling (*Genypterus blacodes*),
 - (g) bigeye ocean perch (*Helicolenus barathri*).

Note—

Under section 40C (3) of the Act, the Minister may direct either the TAF Committee or the Secretary to make the fishing determinations (subject to some limitations).

- (2) A TAC determination is to be made in respect of each of the following periods or such other period as the Minister may determine after consultation with any relevant advisory council or advisory group:
- (a) in the case of spanner crab—12 months commencing on 1 July and ending on 30 June in the following year,
 - (b) in any other case—12 months commencing on 1 May and ending on 30 April in the following year.
- (3) A TAC determination for gemfish is not required to be made under this clause in respect of the fishing period commencing on 1 May 2019 and ending on 30 April 2020.

Note—

For the period commencing on 1 May 2019 and ending on 30 April 2020, a TAC determination for gemfish in the ocean trap and line and ocean trawl fisheries jointly is required to be made. See clause 27 of the Supporting Plan.

5F Taking spanner crab without quota

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of a spanner crab northern zone endorsement and a spanner crab southern zone endorsement that the endorsement holder does not take spanner crab (*Ranina ranina*) in the fishery unless the endorsement holder has quota for that species.

Note—

It is also an offence under section 40S of the Act for a shareholder to take fish, or use a fishing method, or to cause or permit an agent to do so, in contravention of the shareholder's quota.

- (2) For the purposes of section 65 of the Act, contravention of this clause is an offence.

Part 4 Minimum and maximum shareholdings

6 Minimum shareholdings

- (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) Despite subclause (1), the minimum shareholding in relation to ocean trap and line—spanner crab northern zone shares if the shareholder held the shares immediately before 18 December 2015 is 5 shares of that class.

- (3)–(7) (Repealed)

- (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	60
Ocean trap and line—line fishing eastern zone shares	40
Ocean trap and line—demersal fish trap shares	50
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 4A Fishing gear

Note—

Section 24 of the Act makes it an offence for a person to use a net or trap for taking any fish unless its use by the person for taking those fish is declared by the regulations to be a lawful use of the net or trap. This Part sets out the types of fishing gear that may be lawfully used in the fishery (and the conditions of use).

7A Fish trap

- (1) It is lawful for the holder of a demersal fish trap endorsement to use a trap for taking fish (other than rock lobsters) in the waters of the fishery specified in the Table to this clause if the trap complies with the description set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) the fish trap is not used unless its position is indicated by a buoy that:
 - (i) is moored so as to be positioned above the trap, and
 - (ii) measures not less than 100 mm in all dimensions, and
 - (iii) has a height above the water of not less than 50 mm, and
 - (iv) is moored in such a way that no rope is floating on the surface of the water, and
 - (v) displays the relevant fishing business number followed by the letter “F”, in clearly visible letters and figures that are not less than 50 mm in height and are of a colour that contrasts with that of the buoy,
 - (b) the trap is not used in such a manner as to impede the free passage of fish on either or any side of the trap or in such a manner that any 2 traps are closer than 5 metres apart,
 - (c) the trap is not used unless it is secured or weighted so that the trap rests on the seabed.
 - (d) (Repealed)

(2), (3) (Repealed)

(4) For the purposes of this Plan or any other instrument under the Act, a trap referred to in this clause may be referred to as a fish trap.

Table Fish trap

(a) *Waters*—Ocean waters.

1 (b) *Description of trap*—Not exceeding 2 metres in length, 2 metres in width and 2 metres in depth; consisting of mesh having a measurement from one plain wire to the opposite plain wire of not less than 50 mm, except in the back panel; back panel (that is, the side of the trap that is the bottom of the trap when it is lifted) consisting of rectangular or square shaped mesh with a width of not less than 50 mm and a height of not less than 75 mm.

7AA Fish trap limits

- (1) The Secretary is to determine, by instrument in writing, a trap limit for each demersal fish trap fishing business.
- (2) The **trap limit** for a demersal fish trap fishing business is the maximum number of fish traps that may be used or set at any one time in all waters, or in specified waters, by persons taking fish on behalf of the fishing business.
- (3) The Secretary is to determine the trap limit for each demersal fish trap fishing business in accordance with any guidelines approved by the Minister and published in the Gazette.
- (4) The Secretary is to notify the owner of each demersal fish trap fishing business of the trap limit for the business.
- (5) A fishing business owner who is notified of a trap limit by the Secretary under this clause must, as soon as reasonably practicable, ensure each nominated fisher of the fishing business is notified of the trap limit.
- (6) For the purposes of section 68 (6A) of the Act, it is a condition of a demersal fish trap endorsement that the endorsement holder does not use or set, or cause to be used or set, a number of traps at any one time that exceeds the trap limit for the relevant fishing business.
- (7) For the purposes of section 65 of the Act, contravention of subclause (5) or (6) is an offence.
- (8) In this clause:

demersal fish trap fishing business means an ocean trap and line fishing business that has ocean trap and line—demersal fish trap shares as a component.

relevant fishing business, in relation to an endorsement holder, means the demersal fish trap fishing business a component of which is the holder's endorsement.

7B Spanner crab net

- (1) It is lawful for the holder of a spanner crab northern zone endorsement or a spanner crab southern zone endorsement to use a net for taking spanner crabs in the waters specified in the Table to this clause if the net complies with the description set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) in the case of the holder of a spanner crab southern zone endorsement, not more than 30 spanner crab nets are used at any one time,
 - (b) in the case of the holder of a spanner crab northern zone endorsement, not more than 40 spanner crab nets are used at any one time,
 - (c) the net is not used unless its position is indicated by a buoy that:
 - (i) is moored so as to be positioned above the net, and
 - (ii) measures not less than 100 mm in all dimensions, and
 - (iii) has a height above the water of not less than 50 mm, and
 - (iv) is moored in such a way that no rope is floating on the surface of the water, and
 - (v) displays the relevant fishing business number followed by the letter "C", in clearly visible letters and figures that are not less than 50 mm in height and are of a colour that contrasts with that of the buoy,
 - (d) 1 buoy may be used to indicate the position of a group of nets that are attached to the same line.
- (2) For the purposes of this Plan or any other instrument under the Act, a net described in this clause may be referred to as a spanner crab net or a commercial spanner crab net.

Table Spanner crab net

- (a) *Waters*—Ocean waters north of Korogoro Point (Hat Head).
- (b) *Description of net*:
 - (i) netting attached to a rigid frame with a surface area not exceeding 1.6 square metres, and
 - (ii) netting not capable of extending more than 0.1 metre beneath the frame when the frame is suspended in a horizontal position, and
 - (iii) no more than 2 layers of netting.

7C Types of hooks to be used on set lines

- (1) The holder of a line fishing endorsement must not for the purpose of taking fish in the fishery:
 - (a) use any set line with hooks attached unless the hooks are circle hooks, or
 - (b) use any set line in waters that are less than 92 metres (50 fathom) deep with hooks attached unless the hooks are non-offset hooks.
- (1A) It is a condition of an endorsement that the endorsement holder does not contravene this clause.
- (2) In this clause:

circle hook means a hook that is generally circular in shape and that curves inwards so that a straight line drawn from the point of the hook, following the line of the point of the hook, crosses the shank of the hook (but not the eye of the hook).

line fishing endorsement means a line fishing western zone endorsement, a line fishing eastern zone endorsement or a school and gummy shark endorsement.

non-offset hook means a hook that when laid on a flat surface (except for the eye of the hook where the line is attached) lies entirely on the same dimensional plane (that is, flat).

7D Use of set lines (restrictions applying to waters within 3 nm)

- (1) This clause applies to the holder of a line fishing endorsement when taking fish by means of a set line in ocean waters that are not more than 3 nautical miles from the natural coast line.
- (2) The holder of a line fishing endorsement must not for the purpose of taking fish in the fishery:
 - (a) use more than 10 set lines, or
 - (b) use any set line with more than 6 hooks attached, or

- (c) use any bottom set line with wire trace line, or
- (d) use a set line unless its position is indicated by a buoy that:
 - (i) is moored so as to be positioned above the set line, and
 - (ii) measures not less than 100 mm in all dimensions, and
 - (iii) has a height above the water of not less than 50 mm, and
 - (iv) is moored in such a way that no rope is floating on the surface of the water, and
 - (v) displays the relevant fishing business number followed by the letter "S", in clearly visible letters and figures that are not less than 50 mm in height and are of a colour that contrasts with that of the buoy.

- (3) Subclause (2) (b) does not apply to the holder of a school and gummy shark endorsement taking school and gummy shark in ocean waters south of a line drawn due east from the northern point of the entrance to the Moruya River, if all hooks attached to the set line or lines being used are no smaller than 9/0.

Note—

However, see clause 7E.

- (4) It is a condition of an endorsement that the endorsement holder does not contravene this clause.
- (5) In this clause:

bottom set line means any set line that is configured so that any part of the mainline, traces or hooks are within 5 metres of the sea bed.

line fishing endorsement means a line fishing western zone endorsement, a line fishing eastern zone endorsement or a school and gummy shark endorsement.

Note—

Under section 4 (1) of the Act, to "take" fish includes to attempt to do so.

7E Use of set lines (other restrictions applying to waters outside 3 nm and the taking of school and gummy shark)

- (1) This clause applies to the following fishing activities:
 - (a) the taking of fish by means of a set line in ocean waters more than 3 nautical miles from the natural coast line, and
 - (b) the taking of school and gummy shark by means of a set line in ocean waters south of a line drawn due east from the northern point of the entrance to the

Moruya River, if all hooks attached to the set line or lines being used are no smaller than 9/0.

- (2) The holder of a line fishing endorsement must not, for the purpose of taking fish in the fishery, use a set line or lines if the total of all hooks on all set lines being used by the endorsement holder at any one time, for the purposes of a fishing activity to which this clause applies, exceeds either of the following limits:
 - (a) a limit of 1,200 hooks per endorsement (the **endorsement limit**),
 - (b) a limit of 1,200 hooks per fishing business (the **fishing business limit**).
- (3) The endorsement limit applies in respect of each line fishing endorsement, so that the maximum number of hooks that may be used on set lines at any one time, pursuant to that endorsement, in waters to which the endorsement applies is 1,200.
- (4) The fishing business limit applies to all line fishing endorsements that are components of the same fishing business, so that the maximum number of hooks that may be used on set lines at any one time pursuant to endorsements that are components of that fishing business is 1,200 hooks.

Note—

For example, if a fisher holds both a line fishing western zone endorsement and a line fishing eastern zone endorsement, and they are components of the same fishing business, the fisher must not exceed the following limits:

- (a) 1,200 hooks, in respect of the western zone endorsement,
- (b) 1,200 hooks, in respect of the eastern zone endorsement,
- (c) 1,200 hooks, in respect of the fishing business of which the endorsements are a component.

Accordingly, the fisher could use up to 1,200 hooks on set lines in the western zone without exceeding the endorsement limit for that endorsement, and use up to 1,200 hooks on set lines in the eastern zone without exceeding the endorsement limit for that endorsement. However, the fisher must ensure that the total number of hooks used across both zones does not exceed 1,200, as this is the fishing business limit for those endorsements.

- (5) A separate endorsement limit applies in respect of each line fishing endorsement. Accordingly, an endorsement holder who is taking fish in particular waters pursuant to 2 or more line fishing endorsements of exactly the same type may use up to 1,200 hooks in those waters for each endorsement held, without exceeding an endorsement limit.

Note—

For example, a fisher taking fish pursuant to 2 line fishing western zone endorsements may use up to 2,400 hooks without exceeding the relevant endorsement limits.

- (6) A separate fishing business limit applies in respect of each separate fishing business. Accordingly, an endorsement holder who is taking fish in the fishery pursuant to 2 or more line fishing endorsements that are components of separate fishing businesses

(whether or not of the same type) may use up to 1,200 hooks for each fishing business, without exceeding a fishing business limit.

Note—

For example, a fisher taking fish pursuant to 2 line fishing western zone endorsements that are components of separate fishing businesses may use up to 2,400 hooks in the western zone without exceeding either an endorsement limit or a fishing business limit.

However, if one endorsement is a line fishing western zone endorsement and the other endorsement is a line fishing eastern zone endorsement, the separate endorsement limits would still apply. That is, the fisher could use a maximum of 1,200 hooks in each zone.

- (6A) The endorsement holder must not, for the purpose of taking fish in the fishery in accordance with this clause, use a set line unless its position is indicated by a buoy that:
- (a) is moored so as to be positioned above the set line, and
 - (b) measures not less than 100 mm in all dimensions, and
 - (c) has a height above the water of not less than 50 mm, and
 - (d) is moored in such a way that no rope is floating on the surface of the water, and
 - (e) displays the relevant fishing business number followed by the letter “S”, in clearly visible letters and figures that are not less than 50 mm in height and are of a colour that contrasts with that of the buoy.
- (7) It is a condition of an endorsement that the endorsement holder does not contravene this clause.
- (7A) If a hook limit of greater than 1,200 hooks applies to a line fishing eastern zone fishing business (being a fishing business that has ocean trap and line—line fishing eastern zone shares as a component) under clause 7EA, the following applies:
- (a) the endorsement limit for the holder of a line fishing eastern zone endorsement taking fish on behalf of that business is the greater hook limit and not 1,200 hooks,
 - (b) the fishing business limit for that business is the greater hook limit and not 1,200 hooks,
 - (c) the greater limit applies only to the taking of fish in the eastern zone,
 - (d) any references in this clause to 1,200 hooks in relation to a line fishing eastern zone endorsement or fishing business are to be read as the greater hook limit.
- (8) In this clause, **line fishing endorsement** means a line fishing western zone endorsement, a line fishing eastern zone endorsement or a school and gummy shark endorsement.

Note—

Under section 4 (1) of the Act, to “take” fish includes to attempt to do so.

7EA Hook limits for line fishing eastern zone endorsement holders

- (1) The Secretary is to determine, by instrument in writing, a hook limit for each line fishing eastern zone fishing business.
- (2) The **hook limit** for a line fishing eastern zone fishing business is the maximum number of hooks that may be used on all set lines at any one time, by line fishing eastern zone endorsement holders taking fish on behalf of the fishing business.
- (3) The Secretary is to determine the hook limit for each line fishing eastern zone fishing business in accordance with any guidelines approved by the Minister and published in the Gazette.
- (4) The Secretary is to notify the owner of each line fishing eastern zone fishing business of the hook limit for the business.
- (5) A fishing business owner who is notified of a hook limit by the Secretary under this clause must, as soon as reasonably practicable, ensure each nominated fisher of the fishing business is notified of the hook limit.
- (6) For the purposes of section 68 (6A) of the Act, it is a condition of a line fishing eastern zone endorsement that the endorsement holder does not use, or cause to be used, a number of hooks at any one time that exceeds the hook limit for the relevant fishing business.
- (7) For the purposes of section 65 of the Act, contravention of subclause (5) or (6) is an offence.
- (8) In this clause:

line fishing eastern zone fishing business means an ocean trap and line fishing business that has ocean trap and line—line fishing eastern zone shares as a component.

relevant fishing business, in relation to an endorsement holder, means the line fishing eastern zone fishing business a component of which is the holder’s endorsement.

7F Use of drift lines

- (1) The holder of a line fishing endorsement must not, for the purpose of taking fish in the fishery, use a drift line to which is attached:
 - (a) more than 1 hook unless each hook is part of a gang of hooks, or

- (b) more than 1 gang of hooks, or
 - (c) a gang of hooks that comprises more than 5 hooks, or
 - (d) another drift line.
- (2) The holder of a line fishing endorsement must not, for the purpose of taking fish in the fishery, use more than 30 drift lines at any one time.
- (2A) The endorsement holder must not, for the purpose of taking fish in the fishery, use a drift line unless its position is indicated by a buoy, float or similar device attached to the line that:
- (a) measures not less than 100 mm in all dimensions, and
 - (b) has a height above the water of not less than 50 mm, and
 - (c) displays the relevant fishing business number followed by the letter "D", in clearly visible letters and figures that are not less than 50 mm in height and are of a colour that contrasts with that of the buoy.
- (3) It is a condition of an endorsement that the endorsement holder does not contravene this clause.
- (4) In this clause:

gang of hooks means a group of hooks, each of which is attached to, and in direct contact with, at least 1 other of those hooks.

line fishing endorsement means a line fishing western zone endorsement or a line fishing eastern zone endorsement.

Note—

Section 25 of the Act also makes it an offence for a person to be in possession of any fishing gear in, on or adjacent to any waters if the use by that person of that fishing gear for taking fish from those waters is, at that time, prohibited by or under the Act.

7G Use of fish spikes and other implements

- (1) An endorsement holder must not, while on board a boat being used to take fish in the fishery, use any of the following to pierce, impale, beat or otherwise injure any fish or other organism taken in any catch:
- (a) a knife, fish spike or similar implement,
 - (b) a club or similar implement.
- (2) Subclause (1) does not apply to the use of a knife, fish spike or similar implement to kill or process any fish taken in any catch that are to be retained.

- (3) It is a condition of an endorsement that the endorsement holder does not contravene this clause.

7GA Use of handline or rod

- (1) The holder of a line fishing endorsement must not, when taking fish by means of a handline or rod (or pole) and line in ocean waters that are not more than 3 nautical miles from the natural coast line, for the purpose of taking fish in the fishery, use any handline or rod (or pole) and line with more than 6 hooks attached.
- (2) It is a condition of a line fishing endorsement that the endorsement holder does not contravene this clause.

Part 4B Areas of operation

7H Restrictions on areas of operation

For the purposes of section 20 (2) of the Act, it is declared that the waters specified in Column 1 of Schedule 2 are waters in which the class of commercial fishing that consists of the method of fishing specified in Column 2 of that Schedule next to the waters concerned is prohibited.

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) hapuku (*Polyprion oxygeneios*),
- (e) bass grouper (*Polyprion americanus*).

9A Taking of female spanner crab (seasonal restriction)

For the purposes of section 20 (2) of the Act, it is declared that the class of commercial fishing that consists of the taking of female spanner crab (*Ranina ranina*) from the waters of the fishery is prohibited during the period from 21 October in any year to 20 January in the following year (both dates inclusive).

9B Taking of male spanner crab (seasonal restriction)

For the purposes of section 20 (2) of the Act, it is declared that the class of commercial fishing that consists of the taking of male spanner crab (*Ranina ranina*) from the waters of the fishery is prohibited during the period from 21 November to 20 December in each year (both dates inclusive).

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) The maximum boat length specified in Column 1 of the Table to this clause does not apply in respect of a boat if:
 - (a) it is exempted from the maximum boat length requirement in accordance with an exemption criteria determined by the Secretary, and
 - (b) that exemption is specified 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 the case of a boat exempted as provided for by subclause (2), the maximum boat length is taken to be the maximum boat length specified in the fishing boat licence for the boat.
- (4) For the purposes of this clause, the length of a boat is the measured length specified 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 3 persons who do not hold the same type of endorsement to take fish as the endorsement holder.

12AA Bag limits for certain species

- (1) For the purposes of section 17 (1) of the Act, the daily limit of a species of fish described in Column 1 of Schedule 3 is, when the fish are taken from waters specified opposite that species of fish in Column 4 of that Schedule and the person taking the fish falls within the class of endorsement holders specified next to the species in Column 3 of that Schedule, the quantity specified next to that species in Column 2 of that Schedule.
- (2) For the purposes of section 17B (1) (a) of the Act, the possession limit of fish of a species described in Column 1 of Schedule 3 is, when the fish are taken from waters specified opposite that species of fish in Column 4 of that Schedule and the person in possession of that species of fish falls within the class of endorsement holders specified next to the species described in Column 3 of that Schedule, the quantity specified next to that species in Column 2 of that Schedule.
- (3) For the purposes of section 21 (1) (d) of the Act, it is a defence to a prosecution for an offence under section 18 (2) of the Act that is constituted by being in possession of fish in contravention of a possession limit imposed by this Plan if the person charged satisfies the court that the fish were lawfully taken from outside the fishery.

Part 5A Real time reporting

12A Reports to be made by spanner crab northern zone and southern zone endorsement holders

- (1) For the purposes of section 124A (1) of the Act, a holder of a spanner crab northern zone or a spanner crab southern zone endorsement is required to provide the following information to the Secretary in relation to each catch of spanner crab taken by the endorsement holder (a **catch estimate report**):
- (a) the date of the report,
 - (b) the registration number of the commercial fishing licence of the endorsement holder,
 - (c) the number of the fishing business of which the endorsement is a component,

- (d) an estimate of the weight of the catch of spanner crab.
- (2) For the purposes of section 124A (3) (a) of the Act, a catch estimate report must be made:
 - (a) before the endorsement holder moves more than 50 metres from where the endorsement holder landed the catch, or
 - (b) before any of the catch is removed from the boat, or
 - (c) within 30 minutes of the endorsement holder landing the catch,whichever occurs first.
- (3) For the purposes of section 124A (1) of the Act, the endorsement holder is required to provide the following information to the Secretary in relation to each catch of spanner crab in respect of which the endorsement holder has made a catch estimate report (a **final catch report**):
 - (a) the registration number of the commercial fishing licence of the endorsement holder,
 - (b) the number of the fishing business of which the endorsement is a component,
 - (c) the weight of the catch of spanner crab,
 - (d) where the endorsement holder landed the catch.
- (4) For the purposes of section 124A (3) (a) of the Act, a final catch report must be made:
 - (a) before any of the catch is moved out of New South Wales, or
 - (b) within 3 hours of making a catch estimate report in relation to the catch,whichever occurs first.
- (5) For the purposes of section 68 (6A) of the Act, it is a condition of a spanner crab northern zone endorsement and a spanner crab southern zone endorsement that the endorsement holder must remain in the immediate vicinity of the catch until the final catch report has been made.
- (6) For the purposes of section 65 of the Act, contravention of subclause (5) is an offence.
- (7) For the purposes of this clause, the weight of a catch of spanner crab is to be determined by accurate scales and rounded to 1 decimal place.

12B Reporting when real time reporting system not available

For the purposes of section 124A (4) of the Act, if an endorsement holder cannot make a report as required under this Part because the real time reporting system malfunctions or

is not available, the endorsement holder must:

- (a) complete the form approved by the Secretary for the purposes of this clause in accordance with any instructions in the form, and
- (b) send the completed form to the Secretary within the time specified in the form.

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
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>Scorpiis lineolata</i>
Teraglin	<i>Atractoscion aequidens</i>
Wobbegong sharks	<i>Orectolobus</i> spp.

Schedule 2 Restrictions on areas of operation

(Clause 7H)

Column 1

Area affected

Iluka—Woody Bay

The whole of the waters of Woody Bay enclosed by a line drawn from the broad arrow mark engraved in the rock at the north-easterly end of the Woody Head camping ground (29°21.890'S, 153°22.440'E), then in a northerly direction for approximately 300 metres to the broad arrow mark engraved in the rock labelled FD near Seagull Hole (29°21.780'S, 153°22.430'E), then in a south-westerly direction to the Maritime Authority of NSW navigation buoy (29°21.850'S, 153°22.274'E), then in a south-westerly direction to the post marked "NSWF" on the foreshore (29°21.940'S, 153°22.260'E), then along the mean high water mark to the point of commencement.

Column 2

Methods of fishing prohibited

Any method involving the use of a fish trap.

Coffs Harbour Entrance

All waters within the following boundaries:

Commencing at the northern extremity of the eastern breakwater (30°18.535'S, 153°09.164'E) then northerly to position 30°18.200'S, 153°09.100'E, then easterly to position 30°18.200'S, 153°09.500'E, then southerly to position 30°18.800'S, 153°09.500'E, then westerly to position 30°18.800'S, 153°09.100'E, then northerly to the point of commencement, but exclusive of all land area so enclosed.

Any method involving the use of a fish trap.

Coffs Harbour—Harbour

The whole of the waters of Coffs Harbour, west of a line drawn from the northern extremity of the eastern breakwater (30°18.535'S, 153°09.164'E), north to Muttonbird Island, but exclusive of waters enclosed by the following bearings:

30°18.400'S, 153°08.800'E

Any method involving the use of a fish trap.

30°18.500'S, 153°08.800'E

30°18.500'S, 153°09.100'E

30°18.400'S, 153°09.100'E

Crowdy Head Boat Harbour

The whole of the waters of the boat harbour at Crowdy Head and the adjoining South Pacific Ocean up to a line drawn from the most northern extremity of the southern breakwater to the most western extremity of the northern breakwater, that part of the South Pacific Ocean extending 100 metres in a westerly direction from the abovementioned line, and also that part of the South Pacific Ocean extending 100 metres on the seaward side of the breakwaters of the Crowdy Head boat harbour from the beginning of the breakwaters to their extremities.

Any method involving the use of a fish trap.

Ex-HMAS Adelaide Reserve

The whole of the waters enclosed by the following coordinates:

33°27.887'S, 151°27.301'E,

33°27.767'S, 151°27.374'E,

Any method of fishing.

33°27.852'S, 151°27.574'E,

33°27.973'S, 151°27.502'E.

Bellambi Point

The whole of the waters adjacent to Bellambi Point from a line drawn from the northernmost point of the breakwater nearest to Bellambi Point boat ramp in a direction of 55 degrees north-easterly for a distance of 150 metres, then in a direction of 360 degrees due north for a distance of 85 metres to a line bearing 270 degrees due west for a distance of 280 metres, then in a direction of 180 degrees due south to the foreshore at the mean high water mark, then along the foreshore in a generally easterly direction to the breakwater, then along the breakwater at the mean high water mark to the point of commencement.

Any method involving the use of a fish trap.

Schedule 3 Bag limits

(Clause 12AA)

Column 1	Column 2	Column 3	Column 4
Species of fish	Daily limit and possession limit	Fishers to whom bag limit applies	Waters
Blue swimmer crab (<i>Portunus armatus</i>).	25 kilograms.	Demersal fish trap endorsement holders.	All ocean waters.
Blue swimmer crab (<i>Portunus armatus</i>).	0.	Line fishing western zone endorsement holders and line fishing eastern zone endorsement holders.	All ocean waters.
Mud crab (<i>Scylla serrata</i>).	0.	Line fishing western zone endorsement holders, line fishing eastern zone endorsement holders and demersal fish trap endorsement holders.	All ocean waters.
Spanner crab (<i>Ranina ranina</i>).	0.	Line fishing western zone endorsement holders, line fishing eastern zone endorsement holders and demersal fish trap endorsement holders.	All ocean waters.

Longfin river eel (<i>Anguilla reinhardtii</i>).	0.	Line fishing western zone endorsement holders, line fishing eastern zone endorsement holders and demersal fish trap endorsement holders.	All ocean waters.
Shortfin river eel (<i>Anguilla australis</i>).	0.	Line fishing western zone endorsement holders, line fishing eastern zone endorsement holders and demersal fish trap endorsement holders.	All ocean waters.
Eastern sea garfish (<i>Hyporhamphus australis</i>).	20.	Line fishing western zone endorsement holders.	All ocean waters.
Eastern sea garfish (<i>Hyporhamphus australis</i>).	0.	Line fishing eastern zone endorsement holders and demersal fish trap endorsement holders.	All ocean waters.
Banded rockcod (<i>Epinephelus ergastularius</i>), Greeneye dogfish (<i>Squalus blainvillei</i>), Redfish (<i>Centroberyx cynea</i>), Large eyed jobfish (<i>Etelis coruscans</i>), Blue warehou (<i>Serioella brama</i>).	15 kilograms comprised of any single species or a combination of species, whether whole or gutted and gilled.	Holders of a line fishing western zone endorsement who do not also hold a line fishing eastern zone endorsement.	Waters north of latitude 29°15'S.
Wobbeogong shark (<i>Orectolobus</i> spp.).	6 comprised of any single species or a combination of species.	All endorsement holders.	All ocean waters.

Schedule 4 Allocation of quota shares

1 Definitions

In this Schedule:

catch means the total amount of a particular species of fish taken by an eligible shareholder as determined by the Secretary under clause 2.

eligible shareholder means a holder of ocean trap and line—line fishing eastern zone shares who is an eligible shareholder within the meaning of clause 5BA of Part 3A for the class of quota shares concerned.

reporting period means the period commencing on 1 July 2009 and ending on 30 June

2017 (both dates inclusive).

2 Secretary to determine catch

- (1) For the purposes of the allocation formula in this Schedule, the Secretary is to determine the catch of a particular species in accordance with this clause.
- (2) The catch of a species taken by an eligible shareholder is the catch attributable to a fishing business owned by the shareholder at 12 noon on 28 September 2018 and is to be determined on the basis of the records of fishing activities relating to the taking of that species that have been provided to the Secretary under sections 121 and 122 of the Act for the reporting period.
- (3) The Secretary is to:
 - (a) disregard any catch taken during the reporting period that is attributable to a fishing business no longer owned by the shareholder at 12 noon on 28 September 2018, and
 - (b) take account of any catch taken during the reporting period that is attributable to the shareholder because the shareholder acquired shares of the same class under special arrangements for fishing business buyouts during the Department's program known as the Adjustment Subsidy Program.
- (4) For the purposes of determining the catch of a species taken by an eligible shareholder and by all eligible shareholders (referred to as C_i and C_a in the formula in clause 3), the Secretary is to disregard the shareholder's lowest catch of the species for a 12-month period (commencing on 1 July) taken within the reporting period.

3 Allocation of quota shares among eligible shareholders

The number of quota shares for a particular species to be allocated to each eligible shareholder is the number determined in accordance with the following formula:

$$Q_i = \left[\left(0.2 \times \frac{S_i}{S_t} \right) + \left(0.8 \times \frac{C_i}{C_a} \right) \right] \times Q_t$$

where:

Q_i is the number of quota shares of a particular species to be allocated to the eligible shareholder rounded up to the nearest whole share.

S_i is the number of line fishing eastern zone shares held by the eligible shareholder.

S_t is the total number of line fishing eastern zone shares held by all eligible shareholders.

C_i is the total catch of the particular species by the eligible shareholder for the reporting

period.

C_a is the total catch of the particular species by all eligible shareholders for the reporting period.

Q_r is the total number of quota shares for the particular species issued under Part 3A (before any rounding under this clause).