

Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006

[2006-736]



New South Wales

Status Information

Currency of version

Historical version for 22 January 2021 to 26 August 2021 (accessed 9 January 2025 at 8:18)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 22 January 2021

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New South Wales

Contents

1 Name of Regulation	6
2 Commencement	6
3 Ocean Hauling Share Management Plan.....	6
Appendix	6
Part 1 Preliminary	6
1 Name of plan	6
2 Definitions	6
Part 2 Objectives of plan	8
3 Objectives, performance indicators and triggers for review	8
Part 3 Description of fishery	10
Note.....	10
4 Regions of fishery	10
5 Classes of share.....	11
6 Types of endorsement	11
Part 3A Quota management	12
6A New classes of shares	12
6B Allocation of quota shares—first issue.....	13
6BA Allocation of quota shares—second issue	13
6C Issue of quota shares	14

6D Appeals to Share Appeal Panel.....	14
6E TAF Committee required to make TAC determinations	15
6EA TAC determinations required to be made	15
6F Taking fish without quota.....	15
Part 4 Minimum and maximum shareholdings.....	16
7 Minimum shareholding—all shares other than general ocean hauling and purse seine net shares	16
7A Minimum shareholding—general ocean hauling and purse seine net shares	17
8 Maximum shareholding	18
Part 5 Species that may be taken.....	18
9 At least 80% of each hauling shot must be comprised of target or conditional target species	18
Part 6 Areas and times of operation.....	20
10 Waters permanently closed to ocean hauling.....	20
11 Beaches closed to ocean hauling on a seasonal basis.....	20
11A Other restrictions on areas of operation.....	21
12 Hauling net (general purpose) and pilchard, anchovy and bait net (hauling) restrictions	21
13 Garfish net (hauling) restrictions	21
Part 6A Fishing gear.....	21
Note.....	21
Division 1 Use of fishing gear.....	21
13AA Use of nets to assist commercial fishers to take fish.....	21
13A Hauling net (general purpose).....	22
13B Garfish net (hauling)	23
13C Pilchard, anchovy and bait net (hauling)	24
13D Purse seine net	25
Division 2 (Repealed).....	26
Part 7 General requirements in relation to taking fish.....	26
14 (Repealed)	26
15 Evidence of endorsement must be produced where fishing priority sought.....	26

16 Display of identification information on motor vehicles.....	27
17 Use of nets in or near flagged swimming areas.....	27
17A Bag limits for certain species	27
18 Boat capacity restrictions	28
Part 7A Rights of priority	28
Note.....	28
Division 1 General.....	29
18A Fishing contrary to rights of priority	29
18B Endorsement holders must use fishing gear in accordance with this Part.....	29
Division 2 Rights of priority.....	29
18C Priority between endorsement holders taking fish from same ocean beach	29
Part 8 Fishing crews	30
19 Taking fish with the assistance of others	30
20 General crew requirements	31
21 Crew requirements for garfish net (hauling) endorsement holders	31
22 Crew requirements for hauling net (general purpose) and pilchard, anchovy and bait net (hauling) endorsement holders	31
23 Crew limits for hauling net (general purpose) and pilchard, anchovy and bait net (hauling) fishing businesses	31
Part 9 Real time reporting	32
24 Reports to be made by garfish net (hauling) endorsement holders	32
24A Reports to be made by purse seine net endorsement holders	33
25 Reporting when real time reporting system not available	34
Part 10 General	34
26 Adoption of Supporting Plan	34
27 Authorised amendments to Plan	35
Part 11 Transitional TAC determinations.....	35
28 Transition period	35

29 Secretary required to make TAC determinations during transition period	35
30 Transition to TAF Committee fishing determinations	35
Schedule 1 Waters closed to ocean hauling	36
Schedule 2 Beaches closed to ocean hauling on a seasonal basis	41
Schedule 3 Other restrictions on areas of operation	43
Schedule 4 Bag limits	44
Schedule 5 Allocation of quota shares	48
1 Definitions	48
2 Secretary to determine catch	48
3 Allocation of quota shares among eligible shareholders.....	48

Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006



New South Wales

1 Name of Regulation

This Regulation is the *Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006*.

2 Commencement

This Regulation commences on 5 February 2007.

3 Ocean Hauling Share Management Plan

The *Ocean Hauling 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 Hauling 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 hauling fishery (as described in Schedule 1 to the Act).

hauling net means a hauling net (general purpose), garfish net (hauling) or pilchard, anchovy and bait net (hauling).

ocean hauling fishing business means a fishing business the components of which include shares in the fishery.

ocean hauling operations includes the following—

- (a) operating or stowing a hauling net or operating any motor vehicle or boat in relation to the operation of those nets while in, on or adjacent to the waters of the fishery,
- (b) removing any fish taken in the fishery from a hauling net,
- (c) placing any fish taken in the fishery by means of a hauling net into boxes, containers or any other receptacles while in, on or adjacent to the waters of the fishery.

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

prohibited size class of fish means any species of fish referred to in Division 3 of Part 2 of the *Fisheries Management (General) Regulation 2010*.

quota share—see clause 6A.

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

target species of fish for a net means a species specified in the second column of the Table to clause 9 next to the net concerned.

the Act means the *Fisheries Management Act 1994*.

waters of the fishery means the following waters (within the meaning of Schedule 1 to the Act)—

- (a) ocean waters within 3 nautical miles of the natural coast line,
- (b) the waters of Jervis Bay,
- (c) the waters of Coffs Harbour.

Note—

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

- (2) In this Plan, a reference to a region of the fishery is a reference to a region described in clause 4.
- (3) In this Plan, longitude and latitude coordinates are in WGS84 datum, unless otherwise provided.

(4) 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—

by-product species means a species of fish that is retained in the fishery, and that is not a target species or conditional target species.

conditional target species means a species of fish listed in the Table to clause 9 under the heading “conditional target species”.

target species means a species of fish listed in the Table to clause 9 under the heading “target 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 ocean hauling 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 target species or conditional target 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 target species or conditional target species is changed to “overfished” or “recruitment overfished” by the Department
Total annual landings of all conditional target species and by-product species as a percentage of the total annual landings for each fishing method remains at 5% or less	The Secretary is satisfied that the contribution of conditional target species and by-product species to total annual landings for any method exceeds 5% in any 2 consecutive years
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	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
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 Secretary, 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 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 |
|---|---|---------------------------------------|--|

Part 3 Description of fishery

Note—

The fishery is described in Schedule 1 to the Act as consisting of the use of a hauling net or purse seine net to take fish from any of the following waters—

- (a) ocean waters within 3 nautical miles of the natural coast line,
- (b) the waters of Jervis Bay,
- (c) the waters of Coffs Harbour.

The ocean hauling fishery extends to the use of any net by the method of hauling to take fish from any of the waters referred to above.

4 Regions of fishery

- (1) For the purposes of this Plan, the waters of the fishery are divided into 7 regions.
- (2) The 7 regions of the fishery are as follows—
 - (a) **Upper north coast (Region 1).** The waters of the fishery lying generally north of the parallel 29°15′ south latitude.
 - (b) **Clarence (Region 2).** The waters of the fishery lying generally between the parallel 29°15′ south latitude and the parallel 29°45′ south latitude.
 - (c) **North coast (Region 3).** The waters of the fishery lying generally between the parallel 29°45′ south latitude and the parallel 31°44′ south latitude.
 - (d) **Central (Region 4).** The waters of the fishery lying generally between the parallel 31°44′ south latitude and the parallel 33°25′ south latitude.
 - (e) **Metropolitan (Region 5).** The waters of the fishery lying generally between the parallel 33°25′ south latitude and the parallel 34°20′ south latitude.
 - (f) **Upper south coast (Region 6).** The waters of the fishery lying generally between the parallel 34°20′ south latitude and the parallel 35°25′ south latitude.
 - (g) **Lower south coast (Region 7).** The waters of the fishery lying generally south of the parallel 35°25′ south latitude.

5 Classes of share

The following classes of shares are available in the fishery—

- (a) Ocean hauling—general ocean hauling shares—Regions 1, 2, 3, 4, 5, 6 and 7,
- (b) Ocean hauling—hauling net (general purpose) shares—Regions 1, 2, 3, 4, 5, 6 and 7,
- (c) Ocean hauling—garfish net (hauling) shares—Regions 1, 2, 3, 4, 5, 6 and 7,
- (d) Ocean hauling—pilchard, anchovy and bait net (hauling) shares—Regions 1, 2, 3, 4, 5, 6 and 7,
- (e) Ocean hauling—purse seine net shares,
- (f) Ocean hauling—eastern sea garfish quota shares,
- (g) Ocean hauling—Australian sardine quota shares,
- (h) Ocean hauling—blue mackerel quota shares,
- (i) Ocean hauling—yellowtail scad quota shares.

Note—

The classes of shares referred to in paragraphs (a)–(e) correspond to the types of endorsements available in the fishery and the region in which an endorsement authorises the holder to take fish.

The shares referred to in paragraphs (f)–(i) 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.

6 Types of endorsement

- (1) There are 29 types of endorsement available in the fishery, as follows—
 - (a) General ocean hauling endorsement—Regions 1, 2, 3, 4, 5, 6 and 7,
 - (b) Hauling net (general purpose) endorsement—Regions 1, 2, 3, 4, 5, 6 and 7,
 - (c) Garfish net (hauling) endorsement—Regions 1, 2, 3, 4, 5, 6 and 7,
 - (d) Pilchard, anchovy and bait net (hauling) endorsement—Regions 1, 2, 3, 4, 5, 6 and 7,
 - (e) Purse seine net endorsement.
- (2) **General ocean hauling endorsement—Regions 1, 2, 3, 4, 5, 6 and 7** A general ocean hauling endorsement authorises the holder to assist another person who holds an endorsement of a kind referred to in subclause (4), (6) or (8) to take fish, but only if the region specified in that other endorsement is the same as the region specified in the general ocean hauling endorsement.

- (3) Only shareholders who hold ocean hauling—general ocean hauling shares for a region are eligible to be given, or to nominate a person to be given, a general ocean hauling endorsement for that region.
- (4) **Hauling net (general purpose) endorsement—Regions 1, 2, 3, 4, 5, 6 and 7** A hauling net (general purpose) endorsement authorises the holder to use a hauling net (general purpose) to take fish in the region of the fishery specified in the endorsement.
- (5) Only shareholders who hold ocean hauling—hauling net (general purpose) shares for a region are eligible to be given, or to nominate a person to be given, a hauling net (general purpose) endorsement for that region.
- (6) **Garfish net (hauling) endorsement—Regions 1, 2, 3, 4, 5, 6 and 7** A garfish net (hauling) endorsement authorises the holder to use a garfish net (hauling) to take fish in the region of the fishery specified in the endorsement.
- (7) Only shareholders who hold ocean hauling—garfish net (hauling) shares for a region are eligible to be given, or to nominate a person to be given, a garfish net (hauling) endorsement for that region.
- (8) **Pilchard, anchovy and bait net (hauling) endorsement—Regions 1, 2, 3, 4, 5, 6 and 7** A pilchard, anchovy and bait net (hauling) endorsement authorises the holder to use a pilchard, anchovy and bait net (hauling) to take fish in the region of the fishery specified in the endorsement.
- (9) Only shareholders who hold ocean hauling—pilchard, anchovy and bait net (hauling) shares for a region are eligible to be given, or to nominate a person to be given, a pilchard, anchovy and bait net (hauling) endorsement for that region.
- (10) **Purse seine net endorsement** A purse seine net endorsement authorises the holder to use a purse seine net to take fish in any region of the fishery.
- (11) Only shareholders who hold ocean hauling—purse seine net shares are eligible to be given, or to nominate a person to be given, a purse seine net endorsement.

Part 3A Quota management

6A New classes of shares

- (1) The following classes of shares are available in the fishery—
 - (a) Ocean hauling—eastern sea garfish quota shares,
 - (b) Ocean hauling—Australian sardine quota shares,
 - (c) Ocean hauling—blue mackerel quota shares,
 - (d) Ocean hauling—yellowtail scad 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**.

6B Allocation of quota shares—first issue

- (1) A person is eligible to be issued with ocean hauling—eastern sea garfish 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 hauling—eastern sea garfish quota shares if, on the relevant date, the person holds ocean hauling—garfish net (hauling) shares—Regions 1-7.
- (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).

6BA 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 the 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 5.

Table Eligibility for quota shares

Column 1	Column 2
Quota shares	Existing shares
Ocean hauling—Australian sardine quota shares	Ocean hauling—purse seine net shares
Ocean hauling—blue mackerel quota shares	Ocean hauling—purse seine net shares
Ocean hauling—yellowtail scad quota shares	Ocean hauling—purse seine net shares

6C Issue of quota shares

- (1) The Minister is to issue quota shares to eligible shareholders in accordance with a determination under clause 6B or 6BA 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.

6D 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.

6E TAF Committee required to make TAC determinations

- (1) The TAF Committee is required to make a TAC determination for eastern sea garfish.
- (2) A TAC determination is to be made in respect of each period of 12 months commencing on 1 July and ending on 30 June in the following year or such other period as the Minister may determine after consultation with any relevant advisory council or advisory group.
- (3) A TAC determination is to be made in accordance with Division 2 of Part 2A of the Act.
- (4) This clause is subject to Part 11 of this Plan.

Note—

Part 11 provides for the Secretary, and not the TAF Committee, to make the TAC determination for eastern sea garfish during the transition period, which commences on 6 October 2017 and ends on 30 June 2024.

6EA 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) Australian sardine (*Sardinops neopilchardus*),
 - (b) blue mackerel (*Scomber australasicus*),
 - (c) yellowtail scad (*Trachurus novaezelandiae*).

Note—

Under section 40C (3), 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 period of 12 months commencing on 1 May and ending on 30 April in the following year or such other period as the Minister may determine after consultation with any relevant advisory council or advisory group.

6F Taking fish without quota

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement authorising the taking of eastern sea garfish (*Hyporhamphus australis*) that the endorsement holder does not take that species 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.

- (1A) For the purposes of section 68 (6A) of the Act, it is a condition of a purse seine net endorsement that the endorsement holder does not take any of the following species in the fishery unless the endorsement holder has quota for that species—
- (a) Australian sardine (*Sardinops neopilchardus*),
 - (b) blue mackerel (*Scomber australasicus*),
 - (c) yellowtail scad (*Trachurus novaezelandiae*).
- (2) For the purposes of section 65 of the Act, contravention of this clause is an offence.
- (3) (Repealed)

Part 4 Minimum and maximum shareholdings

7 Minimum shareholding—all shares other than general ocean hauling and purse seine net shares

- (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 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 section 68 (3) (b) of the Act.

- (2) The shares relied on to meet the minimum shareholding requirement must all be a component of the same ocean hauling fishing business.

Table

Class of shares	Minimum shareholding
Ocean hauling—hauling net (general purpose) shares (Region 1)	80
Ocean hauling—hauling net (general purpose) shares (Region 2, 4 or 6)	50
Ocean hauling—hauling net (general purpose) shares (Region 3)	120
Ocean hauling—hauling net (general purpose) shares (Region 5)	70
Ocean hauling—hauling net (general purpose) shares (Region 7)	160
Ocean hauling—garfish net (hauling) shares (Region 1)	10

Ocean hauling—garfish net (hauling) shares (Region 2, 3, 4, 5, 6 or 7)	40
Ocean hauling—pilchard, anchovy and bait net (hauling) shares (Region 1, 3, 5 or 7)	30
Ocean hauling—pilchard, anchovy and bait net (hauling) shares (Region 2)	10
Ocean hauling—pilchard, anchovy and bait net (hauling) shares (Region 4 or 6)	20

7A Minimum shareholding—general ocean hauling and purse seine net shares

- (1) For the purpose of section 67 (1) of the Act, the minimum shareholding in relation to the following classes of shares (**relevant shares**) is, subject to subclause (2)—
 - (a) for ocean hauling—general ocean hauling shares (Region 1, 2, 3, 4, 5, 6 or 7)—40 shares,
 - (b) for ocean hauling—purse seine net shares—40 shares.
- (2) The minimum shareholding in relation to the relevant shares is 1 share, if the shareholder is an original entitlement holder.
- (3) Subclause (2) ceases to apply if the shareholder transfers, assigns, forfeits or surrenders any of the relevant shares or if any of the relevant shares are cancelled after 5 February 2007 (in which case subclause (1) applies to the shareholder).
- (4) For the purposes of this clause, an **original entitlement holder** is a person who—
 - (a) held relevant shares immediately before 5 February 2007, and
 - (b) was, immediately before 5 February 2007, 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) A person who was issued with relevant shares 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 5 February 2007, is taken to be an original entitlement holder for the purposes of this clause.
- (6) The shares relied on to meet the minimum shareholding requirement must all be a component of the same ocean hauling fishing business.

8 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 Species that may be taken

9 At least 80% of each hauling shot must be comprised of target or conditional target species

- (1) An endorsement holder must not use a net specified in the Table to this clause to take fish unless at least 80% (by whole weight) of the catch taken from each haul is comprised of target species or conditional target species for that type of net.
- (2) In this clause—
 - (a) the target species for a net specified in the Table to this clause is any fish of a species listed next to the type of net concerned under the heading “target species”, and
 - (b) the conditional target species (if any) for a net specified in the Table to this clause is any fish of a species listed next to the type of net concerned under the heading “conditional target species”.
- (3) For the purposes of section 24 of the Act, it is unlawful to use a net specified in the Table to this clause to take fish in the fishery in contravention of this clause.

Table

Type of net	Target species	Conditional target species
--------------------	-----------------------	-----------------------------------

Hauling net (general purpose)—ocean hauling fishery	Australian salmon (<i>Arripis trutta</i>)	Blue mackerel (<i>Scomber australasicus</i>) Australian bonito (<i>Sarda australis</i>) Leaping bonito (<i>Cybiosarda elegans</i>) Oriental bonito (<i>Sarda orientalis</i>)	
	Dart (<i>Trachinotus</i> spp.)	Mulloway (<i>Argyrosomus japonicus</i>)	
	Luderick (<i>Girella tricuspidata</i>)	Diamond fish (<i>Monodactylus argentus</i>)	
	Sand whiting (<i>Sillago ciliata</i>)	Frigate mackerel (<i>Auxis thazard</i>)	
	Sea mullet (or any other species of mullet included in the Family MUGILIDAE)	Mackerel tuna (<i>Euthynnus affinis</i>)	
	Yellowfin bream (<i>Acanthopagrus australis</i>)	Longtail tuna (<i>Thunnus tonggol</i>) Silver trevally (<i>Pseudocaranx dentex</i>) Spanish mackerel (<i>Scomberomorus commerson</i>) Sweep (<i>Scorpiis lineolata</i>) Tarwhine (<i>Rhabdosargus sarba</i>)	
	Garfish net (hauling)—ocean hauling fishery	Sea garfish (<i>Hyporhamphus australis</i>)	Nil
	Pilchard, anchovy and bait net (hauling)—ocean hauling fishery	Anchovy (<i>Engraulis australis</i>)	
		Blue mackerel (<i>Scomber australasicus</i>)	
		Pilchard (<i>Sardinops neopilchardus</i>)	Nil
Yellowtail scad (<i>Trachurus novaezealandiae</i>) Whitebait spp. (Family CLUPEIDAE/GALAXIIDAE)			

	Anchovy (<i>Engraulis australis</i>)	
	Australian salmon (<i>Arripis trutta</i>)	
	Whitebait spp. (Family CLUPEIDAE/GALAXIIDAE)	
	Blue mackerel (<i>Scomber australasicus</i>)	
	Australian bonito (<i>Sarda australis</i>)	
	Oriental bonito (<i>Sarda orientalis</i>)	
Purse seine net	Jack mackerel (<i>Trachurus declivis</i>)	Nil
	Pilchard (<i>Sardinops neopilchardus</i>)	
	Silver trevally (<i>Pseudocaranx dentex</i>)	
	Sweep (<i>Scorpius lineolata</i>)	
	Yellowtail scad (<i>Trachurus novaezelandiae</i>)	
	Skipjack tuna (also known as striped tuna) (<i>Katsuwonus pelamis</i>)	

Part 6 Areas and times of operation

10 Waters permanently closed to ocean hauling

- (1) Pursuant to section 20 (2) of the Act, it is declared that the waters within 200 metres of the mean low water mark of the waters listed in Schedule 1 are waters in which the class of commercial fishing that consists of the taking of fish by commercial fishers in the fishery is prohibited, subject to subclause (2).
- (2) The declaration under subclause (1) does not prohibit the use of any of the following nets, where those nets are cast from and hauled back to a boat, in waters that are adjacent to a headland that is at the end of a beach specified in Schedule 1—
 - (a) garfish net (hauling),
 - (b) pilchard, anchovy and bait net (hauling).

11 Beaches closed to ocean hauling on a seasonal basis

Pursuant to section 20 (2) of the Act, it is declared that the beaches specified in Column 1 of Schedule 2 are waters in which the class of commercial fishing that consists of the taking of fish by commercial fishers in the fishery is prohibited, during the period specified next to the beach concerned in Column 2 of the Schedule.

Note—

See the Supporting Plan for section 20 (2) closures that apply to more than one share management fishery.

11A Other 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 3 are waters in which the class of commercial fishing that consists of the method of fishing specified in Column 2 of that Schedule is prohibited during the period specified in Column 3 of that Schedule next to the waters concerned.

12 Hauling net (general purpose) and pilchard, anchovy and bait net (hauling) 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 carry out ocean hauling operations (other than operations in relation to use of a garfish net (hauling)) on weekends or on public holidays during the months of November, December, January and February.

(2) In this clause—

public holiday means a day that is observed as a public holiday throughout New South Wales.

weekend means the period between midnight on a Friday and midnight on the immediately following Sunday.

13 Garfish net (hauling) 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 garfish net (hauling) to take fish in the fishery on a weekend or a public holiday.

(2) In this clause—

public holiday means a day that is observed as a public holiday throughout New South Wales.

weekend means the period between midnight on a Friday and midnight on the immediately following Sunday.

Part 6A 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).

Division 1 Use of fishing gear

13AA Use of nets to assist commercial fishers to take fish

It is lawful for a person to assist an endorsement holder in the operation of a net in

accordance with this Division and Part 8.

13A Hauling net (general purpose)

- (1) It is lawful for the holder of a hauling net (general purpose) endorsement to use a hauling net for taking fish in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description set out in relation to those waters in that Table and the following conditions are complied with—
 - (a) the net is used only by the method of hauling,
 - (b) the net has a bunt,
 - (c) the bunt of the net—
 - (i) is in the centre of the net and the net has 2 wings of equal length, or
 - (ii) is located between the end of the net first cast or shot and the centre of the net,
 - (d) the length of each hauling line attached to the net does not exceed the total length of the net to which it is attached,
 - (e) the hauling of the net once commenced (that is, when any part of the net other than the hauling line has been shot or cast) is continued without any interruption or delay until completed,
 - (f) any fish contained in any part of the net are immediately removed on completion of the haul, or on removal of that part of the net from the water, whichever occurs first,
 - (g) the net is not used for taking garfish,
 - (h) the net is operated with the assistance of at least 1 other person,
 - (i) the net is deployed from, and hauled to, a beach.

(2) (Repealed)

(3) This clause is subject to clause 9.

Note—

Clause 9 lists the target and conditional target species for this type of net. At least 80% of the catch taken in each haul must be comprised of those species.

(4) 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 hauling net (general purpose) or a hauling net (general purpose)—ocean hauling fishery.

Table Hauling net (general purpose)

- (a) *Waters*—Ocean waters within 3 nautical miles of the natural coast line, including the waters of Coffs Harbour.
- (b) *Description of net*—
- 1 (i) from 1 March to 31 July in each year—Total length not exceeding 400 metres; length of bunt not exceeding one-third of the total length of net; mesh of bunt not less than 50 mm nor more than 65 mm if taking any fish in the fishery or not less than 95 mm nor more than 102 mm if taking fish other than sea mullet (*Mugil cephalus*); mesh of wings not less than 65 mm nor more than 86 mm; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net,
- (ii) during any other period—Total length not exceeding 400 metres; length of bunt not exceeding one-third of the total length of net; mesh of bunt not less than 50 mm; mesh of wings not less than 80 mm; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net.

- (a) *Waters*—Jervis Bay.
- (b) *Description of net*—
- 2 (i) from 1 March to 31 July in each year—Total length not exceeding 400 metres; length of bunt not exceeding one-third of the total length of net; mesh of bunt not less than 50 mm nor more than 65 mm if taking any fish in the fishery or not less than 95 mm nor more than 102 mm if taking fish other than sea mullet (*Mugil cephalus*); mesh of wings not less than 65 mm nor more than 86 mm; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net,
- (ii) during any other period—Total length not exceeding 400 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 57 mm; remainder of bunt not exceeding 50 metres in length, of mesh not less than 57 mm; mesh of wings not less than 80 mm; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net.

13B Garfish net (hauling)

- (1) It is lawful for the holder of a garfish net (hauling) endorsement to use a hauling net for taking a target species of fish for that net 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) the net is used only by the method of hauling,
- (b) the hauling of the net once commenced (that is, when any part of the net other than the hauling line has been shot or cast) is continued without any interruption or delay until completed,

(c) if the hauling of the net is conducted from a boat, no more than one boat is used, and the boat remains stationary while the net is being retrieved.

(d) (Repealed)

(2) It is also lawful for the holder of a garfish net (hauling) endorsement to use a hauling net for taking any other fish (other than a prohibited size class of fish) that are taken by the net when it is lawfully being used for taking a target species for that net.

(3) (Repealed)

(4) This clause is subject to clause 9.

Note—

Under clause 9, the target species for this type of net is sea garfish. At least 80% of the catch taken in each haul must be comprised of that species.

(5) 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 garfish net (hauling) or as a garfish net (hauling)—ocean hauling fishery.

Table Garfish net (hauling)

(a) *Waters*—Ocean waters within 3 nautical miles of the natural coast line, including the waters of Coffs Harbour.

1 (b) *Description of net*—Total length not exceeding 300 metres; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net; mesh of not less than 28 mm nor more than 85 mm.

(a) *Waters*—Jervis Bay.

2 (b) *Description of net*—Total length not exceeding 300 metres; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net; mesh of not less than 28 mm nor more than 36 mm.

13C Pilchard, anchovy and bait net (hauling)

(1) It is lawful for the holder of a pilchard, anchovy and bait net (hauling) endorsement to use a hauling net for taking a target species of fish for that net in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description set out in relation to those waters in that Table and the following conditions are complied with—

(a) the net is used only by the method of hauling,

(b) the hauling of the net once commenced (that is, when any part of the net other than the hauling line has been shot or cast) is continued without any interruption or delay until completed,

(c) if the hauling of the net is conducted from a boat, no more than one boat is used, and the boat remains stationary while the net is being retrieved.

(d) (Repealed)

(2) It is also lawful for the holder of a pilchard, anchovy and bait net (hauling) endorsement to use a hauling net for taking any other fish (other than prawns, sea garfish or a prohibited size class of fish) that are taken by the net when it is being lawfully used for taking a target species for that net.

(3) (Repealed)

(4) This clause is subject to clause 9.

Note—

Clause 9 lists the target species for this type of net. At least 80% of the catch taken in each haul must be comprised of those species.

(5) 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 pilchard, anchovy and bait net (hauling) or a pilchard, anchovy and bait net (hauling)—ocean hauling fishery.

Table Pilchard, anchovy and bait net (hauling)

(a) *Waters*—Ocean waters within 3 nautical miles of the natural coast line, including the waters of Coffs Harbour.

¹ (b) *Description of net*—Total length (excluding hauling lines) not exceeding 300 metres; total length of hauling lines not exceeding 500 metres; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net; mesh throughout of not less than 11 mm.

13D Purse seine net

(1) It is lawful for the holder of a purse seine net endorsement to use a purse seine net for taking a target species of fish for the net (as referred to in clause 9) 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) the net is cast or shot from, and retrieved to, a boat,

(b) the hauling of the net once commenced (that is, when any part of the net other than the hauling line has been shot or cast) is continued without any interruption or delay until completed, and is conducted from a single boat.

(2) It is also lawful for the holder of a purse seine net endorsement to use a purse seine net for taking any other fish (other than prawns, sea garfish, tuna or a prohibited size class of fish) that are taken by the net when it is being lawfully used for taking a target

species of fish for that net.

(3) For the purposes of this clause, silver trevally is not considered to be a prohibited size class of fish (and accordingly, may lawfully be taken using a purse seine net).

(4) This clause is subject to clause 9.

Note—

Clause 9 lists the target species for this type of net. At least 80% of the catch taken in each haul must be comprised of those species.

(5) 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 purse seine net.

Table Purse seine net

- | | |
|---|---|
| | (a) <i>Waters</i> —Ocean waters within 3 nautical miles of the natural coast line, including the waters of Coffs Harbour. |
| 1 | (b) <i>Description of net</i> —Total length not exceeding 1,000 metres; rings and purse rope or other devices that facilitate pursing attached to lead line; mesh throughout not more than 150 mm. |
| | (a) <i>Waters</i> —Jervis Bay and the whole of the waters of Twofold Bay together with its bays and inlets west of a line drawn from Worang Point (North Head) southerly to Red Point (South Head). |
| 2 | (b) <i>Description of net</i> —Total length not exceeding 275 metres; rings and purse rope or other devices that facilitate pursing attached to lead line; mesh throughout not more than 150 mm. |

Division 2

13E-13G (Repealed)

Part 7 General requirements in relation to taking fish

14 (Repealed)

15 Evidence of endorsement must be produced where fishing priority sought

- (1) If an endorsement holder seeks to take priority over another fisher in ocean hauling operations in the fishery, including by taking a turn before that other fisher, the other fisher may request the endorsement holder seeking to take priority, before taking that turn, to produce evidence of his or her endorsement in the fishery to that other fisher.
- (2) The endorsement holder seeking to take priority may, before responding to such a request, require the fisher making the request to produce evidence of his or her endorsement in the fishery to the endorsement holder seeking priority.

- (3) For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that an endorsement holder must not fail to comply with any reasonable request to produce evidence of an endorsement made in accordance with this clause.

16 Display of identification information on motor vehicles

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not engage in any ocean hauling operations unless there is clearly displayed on any motor vehicle used in connection with the operations the following information—
 - (a) the words “Ocean hauling fishery”,
 - (b) the number of the fishing business of which the endorsement is a component (being the number allocated to the fishing business by the Secretary under the Act).
- (2) If a motor vehicle is being used by more than one endorsement holder, it is sufficient that the information referred to in subclause (1) is displayed as required in relation to only one of those endorsement holders.

17 Use of nets in or near flagged swimming areas

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not shoot or retrieve a net, for the purpose of taking fish in the fishery, while in a flagged swimming area.

- (2) In this clause—

flagged swimming area means any part of a beach used as a swimming area, the boundaries of which are indicated by flags.

17A 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 4 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 4 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.

18 Boat capacity restrictions

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement of a type specified in Column 1 of the Table to this clause that the endorsement holder does not use a boat to take fish in the fishery if the boat has a length exceeding the maximum boat length specified in Column 2 of the Table next to the endorsement concerned.

Table

Column 1	Column 2	Column 3
Types of endorsement	Maximum boat length	Exemption code
Hauling net (general purpose) endorsement	6 metres	N/A
Garfish net (hauling) endorsement, pilchard, anchovy and bait net (hauling) endorsement, and purse seine net endorsement	20 metres	OH

- (2) The maximum boat length specified in Column 2 of the Table to this clause does not apply in respect of a boat if—
- it is exempted from the maximum boat length requirement in accordance with an exemption criteria determined by the Secretary, and
 - that exemption is specified on the fishing boat licence for the boat by the Minister using a code of a kind (if any) specified in Column 3 of the Table to this clause next to the endorsement concerned.
- (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.

Part 7A Rights of priority

Note—

This Part sets out the rights of priority between endorsement holders in the ocean hauling fishery. Rights of priority between commercial fishers and recreational fishers on recognised fishing grounds are set out in the *Fisheries Management (General) Regulation 2010*. Rights of priority between endorsement holders in the ocean hauling fishery and endorsement holders in other fisheries on recognised fishing grounds are set out in the *Fisheries Management (Supporting Plan) Regulation 2006*.

Division 1 General

18A Fishing contrary to rights of priority

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not take fish in the fishery contrary to the rights of priority provided for by this Part after being directed not to do so—

- (a) by a fisheries officer, or
- (b) by another endorsement holder (who is using or intending to use a net or other fishing gear in accordance with this Part).

18B Endorsement holders must use fishing gear in accordance with this Part

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 net or other fishing gear in a manner that is contrary to the provisions of this Part.

Division 2 Rights of priority

18C Priority between endorsement holders taking fish from same ocean beach

- (1) The rights of priority between endorsement holders taking or intending to take fish by use of a relevant net from the same ocean beach are determined as follows—
 - (a) the first turn belongs to the crew that first arrives at the ocean beach with a boat and with a relevant net laid ready for use, but only if there is at least one crew member in attendance, ready to shoot the net, and the other crew members are in the immediate vicinity,
 - (b) the next turn belongs to the crew that next arrives with such a boat and net, and so on,
 - (c) a turn concludes when a crew has shot its net, but in no case extends over a longer period than 24 hours as against any other crew ready and waiting to haul,
 - (d) during its turn a crew has exclusive rights to so much of the ocean beach as equals in length, measured along the foreshore from the point where the boat belonging to that crew is or was positioned or lying, the total length of the net in use or intended to be used, in the direction in which the net is shot or laid ready for shooting,
 - (e) a crew is not entitled to a second turn until all other crews on the ocean beach

have had their first turn,

- (f) the crew of a boat waiting for a turn automatically forfeits its turn if any member of that crew acts as a member of the crew of a boat making a haul,
 - (g) 2 or more turns may be taken simultaneously if the waters being fished admit of double-banking, provided that no net is shot around an inner net within 7.5 metres of the cork line of that inner net without the consent of the crew operating that inner net.
- (2) In this clause, **crew** means a crew consisting of a holder of an endorsement that authorises the holder to use the relevant net and the number of other persons (if any) that are required to effectively operate the net.
 - (3) (Repealed)
 - (4) Despite the above, a crew that has the minimum crew number (or more) has priority over any crew consisting of less than the minimum crew number (regardless of which crew arrived first at the relevant ocean beach).
 - (5) A crew that has less than the minimum crew number is not entitled to a turn while another crew that has the minimum crew number (or more) is ready and waiting to haul (whether or not that other crew has already had a turn).
 - (6) The minimum crew number is 4 persons, 1 of whom must be a holder of an endorsement that authorises the holder to use the relevant net.
 - (7) This clause applies whether or not the ocean beach is a recognised fishing ground (within the meaning of the *Fisheries Management (General) Regulation 2010*).
 - (8) In this clause—
relevant net means a hauling net (general purpose), a garfish net (hauling) or a pilchard, anchovy and bait net (hauling).

Part 8 Fishing crews

19 Taking fish with the assistance of others

For the purposes of section 68 (6A) of the Act, it is a condition of each of the following endorsements that the endorsement holder does not take fish with the assistance of any other person contrary to the provisions of this Part—

- (a) garfish net (hauling) endorsement,
- (b) hauling net (general purpose) endorsement,
- (c) pilchard, anchovy and bait net (hauling) endorsement.

20 General crew requirements

In this Part, the **general crew requirements** that an endorsement holder is required to comply with if taking fish with the assistance of another person are—

- (a) the endorsement holder and the other person must be engaged in the same fishing activity, and
- (b) the endorsement holder must remain in the immediate vicinity of the other person at all times, and
- (c) the endorsement holder must not use, or cause to be used, more than 1 net at any one time, and
- (d) any fish taken by the endorsement holder are to be kept in the endorsement holder's possession until the fish are lawfully disposed of.

21 Crew requirements for garfish net (hauling) endorsement holders

A holder of a garfish net (hauling) endorsement may take fish in the fishery with the assistance of 1 or more other persons if the endorsement holder complies with the general crew requirements.

22 Crew requirements for hauling net (general purpose) and pilchard, anchovy and bait net (hauling) endorsement holders

- (1) A holder of a hauling net (general purpose) or a pilchard, anchovy and bait net (hauling) endorsement may take fish in the fishery with the assistance of 1 or more other persons if—
 - (a) the endorsement holder complies with the general crew requirements, and
 - (b) the endorsement holder does not exceed the crew limit determined by the Secretary under this Part for the relevant fishing business (being the fishing business a component of which is the holder's endorsement).
- (2) For the purposes of section 65 of the Act, contravention of subclause (1) (b) is an offence.

23 Crew limits for hauling net (general purpose) and pilchard, anchovy and bait net (hauling) fishing businesses

- (1) The Secretary is to determine, by instrument in writing, a crew limit for each hauling or PAB fishing business.
- (2) The **crew limit** for a hauling or PAB fishing business is the maximum number of crew that may assist an endorsement holder taking fish on behalf of the fishing business.
- (3) The Secretary is to determine the crew limit for each hauling or PAB 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 hauling or PAB fishing business of the crew limit for the business.
- (5) A fishing business owner who is notified of a crew 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 crew limit.
- (6) For the purposes of section 65 of the Act, contravention of subclause (5) is an offence.
- (7) In this clause—

hauling fishing business means an ocean hauling fishing business that has ocean hauling—hauling net (general purpose) shares—Regions 1-7 as a component.

PAB fishing business means an ocean hauling fishing business that has ocean hauling—pilchard, anchovy and bait net (hauling) shares—Regions 1-7 as a component.

Part 9 Real time reporting

24 Reports to be made by garfish net (hauling) endorsement holders

- (1) For the purposes of section 124A (1) of the Act, a holder of a garfish net (hauling) endorsement is required to provide the following information to the Secretary in relation to each catch of eastern sea garfish 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 eastern sea garfish.
- (2) For the purposes of section 124A (3) (a), a catch estimate report must be made—
 - (a) before the endorsement holder leaves the waters of the fishery, or
 - (b) before the endorsement holder moves more than 50 metres from where the endorsement holder landed the catch, or
 - (c) before any of the catch is removed from the boat, or
 - (d) within 30 minutes of the endorsement holder landing the catch,

whichever occurs first.

- (3) For the purposes of section 124A of the Act, the endorsement holder is required to provide the following information to the Secretary in relation to a catch within 3 hours of making a catch estimate report in relation to that catch (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 eastern sea garfish,
 - (d) where the endorsement holder landed the catch.
- (4) For the purposes of section 68 (6A) of the Act, it is a condition of a garfish net (hauling) endorsement that the endorsement holder must remain in the immediate vicinity of the catch until the final catch report has been made.
- (5) For the purposes of section 65 of the Act, contravention of subclause (4) is an offence.
- (6) For the purposes of this clause, the weight of a catch of eastern sea garfish is to be determined by accurate scales and rounded to 1 decimal place.

24A Reports to be made by purse seine net endorsement holders

- (1) For the purposes of section 124A (1) of the Act, a holder of a purse seine net endorsement is required to provide the following information to the Secretary in relation to each catch of Australian sardine, blue mackerel or yellowtail scad 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) the species of fish,
 - (e) an estimate of the weight of the catch,
 - (f) where the endorsement holder proposes to land the catch.
- (2) For the purposes of section 124A (3) (a), a catch estimate report must be made—
 - (a) before any of the catch is taken out of New South Wales, or
 - (b) before any of the catch is removed from the boat,

whichever occurs first.

- (3) For the purposes of section 124A (1) of the Act, a holder of a purse seine net endorsement is required to provide the following information to the Secretary in relation to each catch 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.
- (4) For the purposes of section 124A (3) (a), a final catch report must be made—
 - (a) before any of the catch is taken out of New South Wales, or
 - (b) within 72 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 purse seine net endorsement that the endorsement holder must remain in possession 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 is to be determined by accurate scales and rounded to 1 decimal place.

25 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 10 General

26 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.

27 Authorised amendments to Plan

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

Part 11 Transitional TAC determinations

28 Transition period

In this Part, **transition period** means the period starting on 6 October 2017 and ending on 30 June 2024.

29 Secretary required to make TAC determinations during transition period

- (1) The Secretary, and not the TAF Committee, is required to make any TAC determinations that the TAF Committee would otherwise be required to make under clause 6E for any fishing period ending on or before 30 June 2024.
- (2) The first TAC determination is to be made in respect of the period beginning on 1 December 2017 and ending on 30 June 2018. After that, a TAC determination is to be made in respect of each period of 12 months commencing on 1 July and ending on 30 June in the following year.
- (3) A TAC determination under this clause is to be made in accordance with Division 3 of Part 2A of the Act, subject to clause 30.

30 Transition to TAF Committee fishing determinations

- (1) The Minister may, during the transition period, give directions to the Secretary as to the matters to which the Secretary is to have regard in making any TAC determination for the fishery that the Secretary is required to make during the transition period.
- (2) A direction may exempt the Secretary from the requirement to have regard to a scientific assessment in making a TAC determination, in which case section 40M (1) of the Act does not apply to the TAC determination.
- (3) The direction is to be given by order in writing.
- (4) The Minister may give a direction under this clause only if the Minister is of the opinion that the direction is necessary to facilitate the structural adjustment of the fishery to TAF Committee fishing determinations.
- (5) Without limiting subclause (1), a direction may require the Secretary to have regard to the following—
 - (a) historical catch or fishing effort in the fishery,
 - (b) the objective of gradually transitioning the fishery to TAF Committee fishing determinations.

- (6) The Secretary is to make any TAC determination that the Secretary is required to make for the fishery during the transition period in accordance with any direction given by the Minister under this clause.
- (7) In this clause, **TAF Committee fishing determination** means a fishing determination made by the TAF Committee under Division 2 of Part 2A of the Act.

Schedule 1 Waters closed to ocean hauling

(Clause 10)

Table Waters in which ocean hauling is prohibited

Region 1—Upper North Coast

Location	Description of waters
Bogangar Beach	The whole of the waters adjacent to the beach from Norries Head generally northwest along the length of the beach for a distance of 400 metres (identified by a group of unnamed rocks).
Crabbes Creek Beach (also known as Golden Beach)	The whole of the waters adjacent to the beach from the intersection of the beach and an extension of Gloria Street, generally south along the beach for a distance of approximately 2.67km to that part of the beach adjacent to the northern end of North Head Road.
Brunswick River	The whole of the waters adjacent to the shoreline on both sides of the mouth of the Brunswick River for a distance of 1,000m, as indicated by the signposts on the breakwall.
Seven Mile Beach to Boulder Beach	The whole of the waters adjacent to the shoreline between the intersection of Seven Mile Beach and an extension of Rutherford St (indicated by the Lennox Head boat channel) and Whites Head, excluding the boat channel.
Shelly Beach	The whole of the waters adjacent to the shoreline between Black Head and Ballina Head.
Airforce Beach	The whole of the waters adjacent to the shoreline from the northern Evans River breakwall generally north for a distance of 400 metres (indicated by the 4WD access track onto the beach).

Region 2—Clarence

Location	Description of waters
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Woody Bay	The whole of the waters adjacent to the shoreline between the northeasternmost extremity of Woody Head and the post marked "NSWF" on the foreshore (near the western end of the Woody Head camping ground) approximately 300 metres along the shoreline.
Turners Beach to Pippi Beach	The whole of the waters adjacent to the shoreline between the southern breakwall of the Clarence River and the vehicle access track on Pippi Beach (approximately 700 metres south of Yamba Point), including Turners Beach, Yamba Beach and Pippi Beach. The waters adjacent to Convent Beach are excluded from this prohibition.
Angourie Bay to Rocky Point (Lake Arragan entrance)	The whole of the waters adjacent to the shoreline between Angourie Point and Rocky Point (directly north of Red Cliff Beach) including Angourie Bay, Little Shelley Beach, Shelley Beach and Plumbago Beach.

Region 3—North Coast

Location	Description of waters
Park Beach	The whole of the waters adjacent to the shoreline between Macauleys Headland and a line drawn east from the shoreline passing through the northern-most point of Little Muttonbird Island (east of the entrance of Coffs Creek).
Hungry Head	The whole of the waters adjacent to the shoreline from the southern training wall of the Bellingen River for a distance of 1km travelling generally south along the shoreline.
Nambucca North Head	The whole of the waters adjacent to the shoreline between the northern end of Beilbys Beach and the southern end of Shelly Beach (Cliffy Point).
Forster Beach	The whole of the waters adjacent to the shoreline from the southern side of the mouth of the Nambucca River for a distance of 1km travelling generally southwesterly along the shoreline.
Middle Beach and Grassy Beach	The whole of the waters adjacent to the shoreline between Scotts Head and Grassy Head.
Smoky Cape	The whole of the waters adjacent to the shoreline between the northwesternmost extremity of Lagers Point, following the shoreline to a point on South Smoky Beach 3km generally southwest from Smoky Cape (that is, adjacent to Black Rocks), including Little Bay, Gap Beach and North Smoky Beach.

Hat Head	The whole of the waters adjacent to the shoreline from the northernmost extremity of Korogoro Point, following the shoreline to a point on Killick Beach 3km generally southwest of the Jew Bite, including Gap Beach, O'Connors Beach and Third Beach.
Crescent Head	The whole of the waters adjacent to the shoreline from Little Nobby at the southern end of Killick Beach for a distance along that beach of 1km.
North Shore Beach	The whole of the waters adjacent to the shoreline between the easternmost extremity of Point Plomer to a point on North Shore Beach 3.5km generally north of the wall travelling along the beach at Pelican Point.
Port Macquarie to Middle Rock Point	The whole of the waters adjacent to the shoreline between the southern wall of the entrance to the Hastings River and Middle Rock Point (south of Lighthouse Beach), including Town Beach, Oxleys Beach, Rocky Beach, Flynn's Beach, Nobbys Beach, Shelly Beach, Miners Beach and Lighthouse Beach.
Grants Beach	The whole of the waters adjacent to the shoreline between the northern wall of Camden Haven Inlet and a point on Grants Beach 1km along the beach.

Region 4—Central

Location

Description of waters

Crowdy Head to Wallabi Point	The whole of the waters adjacent to the shoreline between the southwesternmost point of Crowdy Head and Wallabi Point, including the entrance to the Manning River and Old Bar Beach.
Shelly Beach	The whole of the waters adjacent to the shoreline of Shelly Beach (north of Red Head and Black Head Bay).
Wallis Lake entrance to Seven Mile Beach	The whole of the waters adjacent to the shoreline between the Wallis Lake entrance and the northern end of Seven Mile Beach, including Forster Beach, Pebbly Beach, One Mile Beach, Burgess Beach, Lobster Pot Beach and McBrides Beach.
Boomerang Beach to Blueys Beach	The whole of the waters adjacent to the shoreline between Pimply Rock and Blueys Beach.
Treachery Beach	The whole of the waters adjacent to the shoreline between Treachery Head and Yagon Gibber Headland.
Bennetts Beach	The whole of the waters adjacent to the shoreline for 500 metres on either side of Bennetts Beach Surf Club.

Fingal Beach	The whole of the waters adjacent to the shoreline between Fingal Beach Surf Club and a point 1km generally northeast along the beach.
Stockton Beach	The whole of the waters adjacent to the shoreline between the sewerage treatment works and a point 500 metres north of the Signa shipwreck (a distance of approximately 6.5km).
Nobbys Head to Nine Mile Beach	The whole of the waters adjacent to the shoreline between the southern breakwall at Nobbys Head and the Waste Water Treatment Works at Belmont on Nine Mile Beach, including Nobbys Beach, Newcastle Beach, Bar Beach, Dixon Park Beach, Merewether Beach, Dudley Beach, Redhead Beach and approximately 5km of Nine Mile Beach.
Deep Cave Bay	The whole of the waters adjacent to the shoreline between the northern end of Moonee Beach and Flat Rocks Point.
Frazer Beach	The whole of the waters adjacent to the shoreline between the easternmost point of Snapper Point and the easternmost point of Wybung Head. The area includes Bongon Beach, Frazer Beach, Gravelly Beach and Deadmans Beach.
Pebbley Beach	The whole of the waters adjacent to the shoreline between the easternmost point of Norah Head and the northernmost point of Soldiers Point.

Region 6—Upper South Coast

Location	Description of waters
Coalcliff Beach	The whole of the waters adjacent to the beach (known as Coalcliff Beach) north of Coalcliff Harbour.
Scarborough Beach to Wombarra Beach	The whole of the waters adjacent to the shoreline between the rocks at the northern end of Scarborough Beach to the pool at the southern end of Wombarra Beach, including Noony's Gulf.
Austinmer Beach	The whole of the waters adjacent to the shoreline between the southeasternmost extremity of Bell's Point and the pool at the southern end of Austinmer Beach.
Boyds Beach	The whole of the waters adjacent to the shoreline between the southernmost extremity of Minnamurra Point and the northwesternmost extremity end of Cathedral Rocks.

Culburra Beach	The whole of the waters adjacent to the shoreline between the southern end of Greenwell Point and the southeastern end of Culburra Beach, including Tilbury Cove.
Cudmirrah Beach to Monument Beach	The whole of the waters adjacent to the shoreline between the northern end of Cudmirrah Beach and the northern end of Monument Beach.
Region 7—Lower South Coast	
Location	Description of waters
Pebbly Beach	The whole of the waters adjacent to Pebbly Beach in Murramarang National Park.
Wimbie Beach to Rosedale Beach	The whole of the waters adjacent to the shoreline between the southern extremity of Wimbie Beach and the northern extremity of Rosedale Beach, including Circuit Beach, Lilli Pilli Beach, Mosquito Bay, Garden Bay, Malua Bay, Pretty Point Bay and McKenzies Beach.
Bengello Beach	The whole of the waters adjacent to the shoreline between the Moruya River breakwall and a point 500 metres generally northeast along Bengello Beach.
Tarandore Point to Tuross Head	The whole of the waters adjacent to the shoreline between Tarandore Point and Tuross Head, including One Tree Beach.
Brou Beach (also known as Wilson Hall Beach)	The whole of the waters adjacent to the shoreline for 300 metres on each side of the first set of rocks south of the Lake Brou opening.
Mummaga Head to Glasshouse Rocks	The whole of the waters adjacent to the shoreline between the northeasternmost extremity of Mummaga Head (Dalmeny) and Glasshouse Rocks (south of Narooma Beach), including Joshs Beach, Yabbara Beach, Duesburys Beach, Kianga Beach (except between 1 May and 30 June in each year, both dates inclusive), Carters Beach, Bar Beach and Narooma Beach.
Corunna Point to Boat Harbour Point	The whole of the waters adjacent to the shoreline between the southeasternmost extremity of Corunna Point and the southeasternmost extremity of Boat Harbour Point, including Mystery Bay.
Blue Point to Breakaway Beach	The whole of the waters adjacent to the shoreline between the northeasternmost extremity of Blue Point and the southern end of Breakaway Beach, including Jack Common Beach and Beares Beach.

Armonds Bay Beach to Murrah Head	The whole of the waters adjacent to the shoreline between the northern extremity of Armonds Bay and the southeastern extremity of Murrah Head.
Goalen Head to Bunga Head	The whole of the waters adjacent to the shoreline between the eastern extremity of Goalen Head and the eastern extremity of Bunga Head, including Bunga Beach.
Bengunnu Point to Picnic Beach	The whole of the waters adjacent to the shoreline between the eastern extremity of Bengunnu Point and the northern end of Picnic Beach.
Merimbula Beach	The whole of the waters adjacent to the shoreline between the northern extremity of Merimbula Beach and a point 500 metres south along that beach.

Schedule 2 Beaches closed to ocean hauling on a seasonal basis

(Clause 11)

Column 1	Column 2
Closed beaches	Period of closure
All ocean beaches bounded by Point Danger at Tweed Heads south to Goanna Headland (Evans Headland)	From 8am Good Friday to midnight on Easter Sunday
Bluff Beach (Iluka)	From 1 December to 31 January in the succeeding year
Brooms Head Beach—that section from Cakora Point or Brooms Head, north westerly to a line extending due east from the road bridge over the entrance to Cakora Lagoon	From 15 December to 15 January in the succeeding year
Station Creek Beach (North of Red Rock)	From 1 October to the last day in February in the succeeding year
Main Beach (Nambucca heads)	From 1 October to the last day in February in the succeeding year
Grassy Beach bounded by Grassy Head and Middle Head	From 1 October to the last day in February in the succeeding year
Front Beach (Trial Bay)—that part extending from the western most extremity of the beach generally easterly for 800 metres but not including the waters of Saltwater Creek	From 20 December to 31 January in the succeeding year
Smoky Cape—Laggers Point south to a point due west of Black Rocks (approximately 3,000 metres south from Smoky Cape)	From 1 October to the last day in February in the succeeding year
Town Beach (Port Macquarie)	From 1 October to the last day in February in the succeeding year

Flynns Beach	From 1 October to the last day in February in the succeeding year
Shelly Beach	From 1 October to the last day in February in the succeeding year
Miners Beach	From 1 October to the last day in February in the succeeding year
Lighthouse Beach—that part from the southern extremity of Tacking Point south to Watonga Rock	From 1 October to the last day in February in the succeeding year
Grants Beach (North Haven Beach)—that part from the northern breakwall to Camden Haven inlet for a distance of 1,000 metres	From 1 December to 31 January in the succeeding year
Hat Head Beach—that portion of Hat Head Beach for a distance of 1,000 metres from Korogoro Creek mouth, north to a pedestrian access no. 6	Between sunrise and sunset in the period from 15 December to 31 January in the succeeding year
Whale Beach	From 1 November to the last day in February in the succeeding year
Avalon Beach	From 1 November to the last day in February in the succeeding year
Bilgola Beach	From 1 November to the last day in February in the succeeding year
Bungan Beach	From 1 November to the last day in February in the succeeding year
Basin Beach	From 1 November to the last day in February in the succeeding year
Mona Vale Beach	From 1 November to the last day in February in the succeeding year
Warriewood Beach	From 1 November to the last day in February in the succeeding year
Turimetta Beach	From 1 November to the last day in February in the succeeding year
Narrabeen Beach	From 1 November to the last day in February in the succeeding year
Collaroy Beach	From 1 November to the last day in February in the succeeding year
Dee Why Beach	From 1 November to the last day in February in the succeeding year
Manly Beach	From 1 November to the last day in February in the succeeding year
All ocean beaches bounded by South Head and Cape Banks	From 1 November to the last day in February in the succeeding year

Schedule 3 Other restrictions on areas of operation

(Clause 11A)

Column 1	Column 2	Column 3
Area affected	Method of fishing prohibited	Period
<p>Trial Bay South West Rocks</p> <p>The whole of the waters within a 100 metre radius of the following points at Trial Bay: 30°52.645'S, 153°03.175'E and 30°52.664' S, 153°03.106' E which are ordinarily marked by a Transport for NSW buoy and a Department of Primary Industries buoy.</p>	<p>Any method involving the use of the following—</p> <p>(a) a purse seine net,</p> <p>(b) a pilchard, anchovy and bait net (hauling).</p>	<p>All year.</p>
<p>Ex-HMAS Adelaide Reserve</p> <p>The whole of the waters enclosed by the following coordinates—</p> <p>33°27.887'S, 151°27.301'E,</p> <p>33°27.767'S, 151°27.374'E,</p> <p>33°27.852'S, 151°27.574'E,</p> <p>33°27.973'S, 151°27.502'E.</p>	<p>Any method.</p>	<p>All year.</p>
<p>Narrabeen—Black Road Bait Ground</p> <p>The whole of the waters known as the Black Road Bait Ground, enclosed by a line drawn east from the eastern extremity of North Narrabeen Head for a distance of approximately 1650 metres to the 30 fathom depth contour, then southerly along the 30 fathom depth contour to a point approximately 2650 metres due east of South Narrabeen Surf Life Saving Club, then by a line drawn west to that Club.</p>	<p>Any method involving the use of a purse seine net.</p>	<p>All year.</p>
<p>Clovelly Beach</p> <p>The whole of the waters of Clovelly Beach (also known as Little Coogee Bay) westwards of a line drawn from the easternmost point of the headland at Clovelly Surf Club, north to the easternmost point of Shark Point.</p>	<p>Any method.</p>	<p>All year.</p>

Port Hacking

The whole of the waters of that part of Port Hacking north of a line drawn from the southern extremity of Hungry Point north-easterly to a point on the northern foreshore of Port Hacking due south of the Bass and Flinders Memorial.

Any method.

The period from 6am Saturday to 6am Monday, or to 6pm Monday if Monday is a public holiday, in each week.
On any weekday (other than a Monday) that is a public holiday: the period from 6am to 6pm.

Shell Harbour

The whole of the waters of that part of Shell Harbour north-west of a line drawn from the southern extremity of the northern breakwater to the eastern extremity of the southern breakwater.

Any method.

All year.

Merimbula Fishing Platform

The whole of the waters within a 200m radius of the Merimbula Fishing Platform.

Any method.

All year.

Tathra Fishing Platform

The whole of the waters within a 200m radius of the Tathra Fishing Platform.

Any method.

All year.

Snug Cove

The whole of the waters of Snug Cove, generally east of a line drawn from the eastern extremity of Cattle Bay to a position 50 metres along the Eden breakwater in a westerly direction from the Eden unloading wharf.

Any method.

All year.

Schedule 4 Bag limits

(Clause 17A)

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>).	0.	Hauling net (general purpose) endorsement holders—Regions 1-7.	All waters.

Mud crab (<i>Scylla serrata</i>).	0.	Hauling net (general purpose) endorsement holders—Regions 1-7.	All waters.
Spanner crab (<i>Ranina ranina</i>).	0.	Hauling net (general purpose) endorsement holders—Regions 1-7	All waters.
Longfin river eel (<i>Anguilla reinhardtii</i>).	0.	Hauling net (general purpose) endorsement holders—Regions 1-7.	All waters.
Shortfin river eel (<i>Anguilla australis</i>).	0.	Hauling net (general purpose) endorsement holders—Regions 1-7.	All waters.
Australian sardine (<i>Sardinops neopilchardus</i>).	0.	Hauling net (general purpose) endorsement holders in any region and garfish net (hauling) endorsement holders in any region.	All waters.
Bass grouper (<i>Polyprion americanus</i>).	0.	<p>Holder of the following endorsements in any region—</p> <p>(a) hauling net (general purpose),</p> <p>(b) garfish net (hauling),</p> <p>(c) pilchard, anchovy and bait net (hauling),</p> <p>(d) purse seine net.</p>	All waters.
Hapuku (<i>Polyprion oxygeneios</i>).	0.	<p>Holder of the following endorsements in any region—</p> <p>(a) hauling net (general purpose),</p> <p>(b) garfish net (hauling),</p> <p>(c) pilchard, anchovy and bait net (hauling),</p> <p>(d) purse seine net.</p>	All waters.

Bigeye ocean perch (<i>Helicolenus barathri</i>).	0.	<p>0. Holders of the following endorsements in any region—</p> <p>(a) hauling net (general purpose),</p> <p>(b) garfish net (hauling), All waters.</p> <p>(c) pilchard, anchovy and bait net (hauling),</p> <p>(d) purse seine net.</p>
Blue-eye trevalla (<i>Hyperoglyphe antarctica</i>).	0.	<p>0. Holders of the following endorsements in any region—</p> <p>(a) hauling net (general purpose),</p> <p>(b) garfish net (hauling), All waters.</p> <p>(c) pilchard, anchovy and bait net (hauling),</p> <p>(d) purse seine net.</p>
Pink ling (<i>Genypterus blacodes</i>).	0.	<p>0. Holders of the following endorsements in any region—</p> <p>(a) hauling net (general purpose),</p> <p>(b) garfish net (hauling), All waters.</p> <p>(c) pilchard, anchovy and bait net (hauling),</p> <p>(d) purse seine net.</p>

Gemfish (<i>Rexea solandri</i>).	0.	<p>Holders of the following endorsements in any region—</p> <p>(a) hauling net (general purpose),</p> <p>(b) garfish net (hauling), All waters.</p> <p>(c) pilchard, anchovy and bait net (hauling),</p> <p>(d) purse seine net.</p>
Tiger flathead (<i>Platycephalus richardsoni</i>).	0.	<p>Hauling net (general purpose) endorsement holders in any region. All waters.</p>
Bluepotted flathead (<i>Platycephalus caeruleopunctatus</i>).	0.	<p>Hauling net (general purpose) endorsement holders in any region. All waters.</p>
Eastern school whiting (<i>Silago flindersi</i>).	0.	<p>Holders of the following endorsements in any region—</p> <p>(a) hauling net (general purpose),</p> <p>(b) garfish net (hauling), All waters.</p> <p>(c) pilchard, anchovy and bait net (hauling),</p> <p>(d) purse seine net.</p>
Stout whiting (<i>Silago robusta</i>).	0.	<p>Holders of the following endorsements in any region—</p> <p>(a) hauling net (general purpose),</p> <p>(b) garfish net (hauling), All waters.</p> <p>(c) pilchard, anchovy and bait net (hauling),</p> <p>(d) purse seine net.</p>

Schedule 5 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 hauling—purse seine net shares who is an eligible shareholder within the meaning of clause 6BA 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 Australian sardine, blue mackerel and yellowtail scad 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—

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

where—

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

S_r is the number of purse seine net shares held by the eligible shareholder.

S_t is the total number of purse seine net 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).