



Queensland

Fisheries Act 1994

Fisheries (Spanner Crab) Management Plan 1999

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Fisheries (Spanner Crab) Management Plan 1999

[as amended by all amendments that commenced on or before 16 June 2006]

Part 1 Preliminary

1 Short title

This management plan may be cited as the *Fisheries (Spanner Crab) Management Plan 1999*.

2 Commencement

- (1) The following provisions commence on the notification day—
 - part 1
 - section 15(1)
 - part 4, divisions 3 and 4
 - part 10, division 1
 - schedules 1 to 3.
- (2) The remaining provisions of this plan commence on 1 June 1999.

3 The fishery

- (1) This plan applies in relation to the spanner crab fishery (*the fishery*).
- (2) The fishery, as at 2 August 1998, is described in schedule 1, part 1.
- (3) Its known status, as at 2 August 1998, is stated in schedule 1, part 2.

4 Objectives of plan and their achievement

- (1) The objectives of this plan are to—
 - (a) ensure spanner crabs are used in an ecologically sustainable way; and
 - (b) manage the fishery to give optimal, but sustainable, community benefit; and
 - (c) manage the commercial fishery to give optimal, but sustainable, economic efficiency; and
 - (d) ensure a fair division of access to spanner crabs among commercial, recreational and Aboriginal and Torres Strait Islander fishers; and
 - (e) monitor and review the commercial spanner crab catch.
- (2) Schedule 2 states how the objectives are to be achieved.
- (3) The achievement of each objective—
 - (a) may be measured only in the way stated in schedule 2; and
 - (b) may be reviewed by the chief executive if a review event stated in schedule 2 for the objective happens.

5 Aids to interpretation and definitions—sch 3

- (1) Schedule 3, part 1 contains provisions that aid the interpretation of this plan.
- (2) Schedule 3, part 2 and the dictionary in schedule 3, part 3 define particular words used in this plan.

Part 2 Closed season declaration

6 Spawning closure

The period from midnight on 20 November to midnight on 20 December in every year is a closed season for spanner crabs.

7 Prohibitions

A person must not—

- (a) take a spanner crab during the closed season; or
- (b) possess a spanner crab that was taken during the closed season.

8 Exemptions

It is not unlawful for a person during the closed season to—

- (a) unintentionally take a spanner crab if the spanner crab is not intentionally or recklessly injured or damaged and is immediately put back; or
- (b) possess a spanner crab that was taken before the closed season started.

Part 2A Closed waters declaration**Division 1 Schedule 2A, part 1****8A Closures—sch 2A, pt 1**

- (1) The waters mentioned in schedule 2A, part 1¹ are closed waters.
- (2) The waters are closed every year, all year.

8B Prohibited activities

- (1) This section applies to—
 - (a) commercial fishers acting under ‘C2’ licences; and
 - (b) recreational fishers.

¹ Schedule 2A (Water closures), part 1 (Wolf Rock grey nurse shark protection area closure)

- (2) The following activities are prohibited—
 - (a) taking a spanner crab in closed waters under this division;
 - (b) possessing a spanner crab taken in contravention of paragraph (a).

Division 2 Schedule 2A, part 2

8C Closures—sch 2A, pt 2

- (1) The waters mentioned in schedule 2A, part 2² are closed waters.
- (2) The waters are closed every year, all year.

8D Prohibited activities—commercial fishers acting under ‘C2’ licences

- (1) This section applies to commercial fishers acting under ‘C2’ licences.
- (2) The following activities are prohibited—
 - (a) taking a spanner crab in closed waters under this division from 6p.m. to 6a.m. on any day;
 - (b) possessing a spanner crab taken in contravention of paragraph (a).

8E Prohibited activities—recreational fishers

- (1) This section applies to recreational fishers.
- (2) The following activities are prohibited—
 - (a) taking a spanner crab in closed waters under this division from 6p.m. to 6a.m. on any day;
 - (b) using a crab apparatus, other than a permitted apparatus mentioned section 8F, to take a spanner crab in closed

2 Schedule 2A (Water closures), part 2 (Other grey nurse shark protection area closures)

waters under this division from 6a.m. to 6p.m. on any day;

- (c) using more than 4 permitted apparatus at a time to take spanner crab in closed waters under this division from 6a.m. to 6p.m. on any day;
- (d) possessing a spanner crab taken in contravention of paragraph (a), (b) or (c).

8F Permitted apparatus for recreational fishers

- (1) For section 8E(2)(b) and (c), a dilly that complies with subsections (2) to (5) is a permitted apparatus.
- (2) The dilly must have—
 - (a) an area within its frame of no more than 1m²; and
 - (b) a net drop below its frame of no more than 10cm.
- (3) The dilly's net must have square or rectangular meshes.
- (4) The mesh size of the net must be at least 25mm.
- (5) The dilly must have attached to it—
 - (a) a tag with the owner's full name and address on it; and
 - (b) a light coloured float that—
 - (i) is at least 15cm in each of its dimensions; and
 - (ii) has the owner's full name on it.

Part 3 Regulated fish declarations³

Division 1 Declarations that apply to everybody

9 Application of div 1

This division applies to everybody.

10 Spanner crabs less than minimum size

- (1) A spanner crab is a regulated fish if—
 - (a) the crab has an undamaged carapace and its carapace length is less than 10cm; or
 - (b) if the crab's carapace is damaged or missing—its sternite is less than 3.7cm.⁴
- (2) Taking or possessing the spanner crab is prohibited.

11 Egg-bearing spanner crabs

- (1) An egg-bearing female spanner crab is a regulated fish.⁵
- (2) Taking or possessing the spanner crab is prohibited.

Division 2 Declaration that applies only to recreational fishers

12 Spanner crabs regulated by number

- (1) This section applies only to recreational fishers.
- (2) More than 20 spanner crabs are fish regulated by number.

3 See however section 12(a) and (b) (When Act does not apply) of the Act, for when the Act does not apply to the taking or possession of regulated fish.

4 For how to measure the carapace or sternite, see schedule 3, part 1, section 1 (Measuring carapace or sternite length).

5 An egg-bearing female is also called a 'berried female'.

- (3) Taking or possessing fish regulated by number is prohibited.
- (4) However, a person may possess fish regulated by number if the person did not take the fish.

Part 4 Commercial fishery (managed area A)

Division 1 General

13 Application of pt 4

This part applies only to the taking of spanner crabs for trade or commerce in managed area A or the possession of spanner crabs taken in managed area A.

14 Who may take spanner crabs for trade or commerce

A person may only take or possess a spanner crab in a quota year if—

- (a) either—
 - (i) the person is a ‘C2’ licence holder and also holds ITQ units, 1 or more of which has an entitlement for that year that has not been used;⁶ or
 - (ii) a ‘C2’ licence holder mentioned in subparagraph (i) has allowed the person to take or possess spanner crabs under the licence; and
- (b) the primary boat identified in the ‘C2’ licence is used to take the spanner crab; and
- (c) the person is a commercial or assistant fisher or is acting under a crew licence.

⁶ For use of ITQ units, see sections 27 (Meaning of *entitlement* of ITQ unit holder) and 28 (When entitlement is *used* for a quota year).

15 Restrictions on writing 'C2' fishery symbol on authorities

- (1) Until 1 June 2001, the chief executive may write a 'C2' fishery symbol on a primary licence only if—
 - (a) the licence is a replacement licence for a 'C2' licence; or
 - (b) the chief executive renews the licence.
- (2) From 1 June 2001, the chief executive may write a 'C2' fishery symbol on a primary licence only if the chief executive—
 - (a) has approved an application to transfer ITQ units to the holder;⁷ and
 - (b) transfers the ITQ units to the licence holder when the chief executive writes the symbol on the licence.

Division 2 How spanner crabs may be taken**Subdivision 1 General****16 Permitted apparatus—dillies**

- (1) A spanner crab may be taken only by using a dilly.
- (2) A dilly may be used only if it complies with subdivision 2 and its use complies with section 17.

17 Dillies—permitted number

- (1) No more than 45 dillies may be used at a time.
- (2) No more than 15 dillies may be set on a line.
- (3) No more than 50 dillies may be on, or attached to, a boat being used to take spanner crab.

⁷ For when the chief executive may approve an application to transfer ITQ units, see division 4, subdivision 2 (Transfer conditions).

Subdivision 2 Requirements for dillies

18 Frame area

A dilly must have an area within its frame of no more than 1m² and a net drop below its frame of no more than 10cm.

19 Net

- (1) A dilly's net must have only 1 layer of mesh and each mesh in the layer must be square or rectangular.
- (2) The mesh size of the net must be at least 25mm.

20 Identification of dillies

- (1) A dilly must have—
 - (a) a tag with the owner's name written on it or be marked with the owner's boat mark; and
 - (b) a float attached to it or be set on a line that has a float attached to at least 1 of its ends.
- (2) The float must—
 - (a) be at least 15cm in each of its dimensions; and
 - (b) have the owner's boat mark on it; and
 - (c) have a flag attached to it that is at least 2m above the water.

Division 3 Annual quota

21 Annual quota

The annual quota for spanner crabs in managed area A is 1727t.

22 Period for each annual quota

The period (*quota year*) for each annual quota is—

- (a) for the first annual quota—1 June 1999 to the end of 31 May 2000; or
- (b) for each other annual quota—each period from 1 June to the end of the next 31 May.

Division 4 ITQs

Subdivision 1 General

23 Issue of ITQ units

- (1) ITQ units must be issued by the chief executive under part 10, division 1.
- (2) Each ITQ unit is an authority.

24 No ITQ units to be issued after 1 June 1999

The chief executive must not issue any ITQ units after 1 June 1999.

25 ITQ units must be whole amounts

ITQ units can only be expressed as a whole amount.

27 Meaning of *entitlement* of ITQ unit holder

- (1) Subject to subdivision 3,⁸ each ITQ unit authorises its holder to take, in each quota year, the weight of spanner crabs that may be taken under an ITQ unit, as stated in the holder's ITQ certificate for the year.
- (2) The stated weight must be fixed by dividing the annual quota for the year by the total number of ITQ units that have been issued.
- (3) The authorisation for each quota year is the holder's *entitlement* under the unit for that year.

⁸ Subdivision 3 (Entitlement of transferee under transferred ITQ units)

- (4) However, the entitlement applies only while the person is a 'C2' licence holder.

28 When entitlement is *used* for a quota year

The entitlement of the holder of an ITQ unit under the unit is *used* for a quota year—

- (a) when the unit holder, or a person acting under the unit, has, in that year, taken an amount of spanner crabs equalling the total entitlements under the ITQ units held by the holder; or
- (b) if section 29(2) applies.

29 No carrying forward of unused entitlement

- (1) This section applies if, in any quota year, an ITQ unit holder takes less than the amount of spanner crabs equalling the total entitlements under the ITQ units held by the holder.
- (2) The holder is taken, at the end of the quota year, to have used all the entitlements under the ITQ units held by the holder for that year.
- (3) For the next quota year, the entitlement of the holder under each ITQ unit held by the holder is the same as the entitlement of any other ITQ unit holder under each unit held by them for that year.

30 ITQ certificates

- (1) The chief executive must, for each quota year, issue a certificate (an *ITQ certificate*) to each ITQ unit holder.
- (2) The ITQ certificate must state the following—
 - (a) the holder's name;
 - (b) any primary boat identified in the holder's 'C2' licence for which the ITQ units were issued;
 - (c) that the certificate is issued for the taking of spanner crabs in managed area A;
 - (d) the quota year to which the certificate applies;

- (e) how many ITQ units the holder has;
- (f) the entitlement of the holder under each ITQ unit;
- (g) the weight of spanner crabs that may be taken in the year under—
 - (i) each ITQ unit; and
 - (ii) all the ITQ units the holder has;
- (h) if the chief executive has imposed conditions on the ITQ units—the conditions.

Subdivision 2 Transfer conditions

31 Purpose of sdiv 2

This subdivision prescribes, for section 65(4)(a)⁹ of the Act, conditions for the granting, by the chief executive, of an application to transfer ITQ units.

32 Conditions for transfers before 2 June 2001

- (1) This section applies only if the application is made before 2 June 2001.
- (2) The proposed transferee must hold a 'C2' licence.
- (3) The chief executive must not approve the application if, were the transfer to be made, the transferee would hold more than 4000 ITQ units.

33 Transferee must hold 'C2' licence or approval

The proposed transferee must hold a 'C2' licence or the chief executive must have approved an application for the granting of a 'C2' licence to the transferee.

9 Section 65 (Transfer of authority (other than permit)) of the Act

34 Transferor's and transferee's ITQ certificates must be amended

The applicant and the proposed transferee must apply to the chief executive to amend any ITQ certificates they hold in a way that reflects the proposed transfer of the units from the holder to the proposed transferee.

35 No serious fisheries offences by transferee

The transferee must not have committed a serious fisheries offence within 2 years before the application is made.¹⁰

38 Payment of fees for transferred units

The whole of any fee under the Act for the ITQ units must be paid if the fee is payable when the application is made or will become payable within 90 days after the application is made.¹¹

Subdivision 3 Entitlement of transferee under transferred ITQ units**39 Entitlement**

- (1) The entitlement of the transferee under a transferred ITQ unit is the unused entitlement of the transferor under the unit immediately before the chief executive approved the transfer.

Example—

If the chief executive approves a transfer of 10 ITQ units and, immediately before the approval the transferor had, in the quota year of the approval, taken an amount of spanner crabs equalling the total entitlement under 6 ITQ units, the entitlement of the transferee under the transferred units is—

10 For serious fisheries offences see the schedule (Dictionary) of the Act, definition *serious fisheries offence*, section 108 (Serious fisheries offences) of the regulation and section 84 (Serious fisheries offences).

11 For when a fee for an ITQ unit becomes payable, see section 112 (Other fees payable under the Act) of the regulation.

- (a) for the rest of the quota year—an amount of spanner crabs equalling the total entitlement under 4 ITQ units; and
 - (b) for each subsequent quota year—an amount of spanner crabs equalling the total entitlement under 10 ITQ units.
- (2) However, if the transferor has, immediately before the approval of the transfer, taken any spanner crabs under a transferred ITQ unit, the transferee's entitlement under the unit for the rest of the quota year in which the transfer was approved is zero.

Example—

If the chief executive approves a transfer of 10 ITQ units and, immediately before the approval, the transferor had, in the quota year of the approval, taken an amount of spanner crabs equalling the total entitlements under 6.25 ITQ units, the entitlement of the transferee under the transferred units is an amount of spanner crabs equalling the total entitlement under 3 ITQ units.

Division 5 Carrier boats

40 No more carrier boat licences

- (1) The chief executive must not issue a carrier boat licence that allows the use of a boat in managed area A.
- (2) However, the chief executive may—
 - (a) issue a replacement licence for a carrier boat licence; or
 - (b) renew a carrier boat licence.

41 Person in control must identify spanner crabs

A person in control of a carrier boat must ensure—

- (a) each spanner crab on board the boat is held in a container; and
- (b) the container only holds spanner crabs taken under the same primary licence; and
- (c) the container is marked with the boat mark for the boat used to take the spanner crabs in the container.

Maximum penalty—500 penalty units.

Division 6 Miscellaneous

42 Use of primary boats

A primary boat longer than 20m must not be used.¹²

43 Use of tender boats

A tender boat must not be longer than 7m or used more than 800m from its primary boat.

44 Permitted distance for an assistant fisher to be under direction

The permitted distance for an assistant fisher to be under direction is 800m.¹³

Part 5 Commercial fishery (managed area B)

Division 1 General

45 Application of pt 5

This part applies only to the taking of spanner crabs for trade or commerce in managed area B or the possession of spanner crabs taken in managed area B.

46 Who may take spanner crabs for trade or commerce

A person may take or possess a spanner crab only if—

12 However, see section 43 (Restrictions on writing fishery symbols on authorities allowing the use of boats of certain lengths in commercial fisheries) of the regulation.

13 For the requirement for an assistant fisher to only use commercial fishing apparatus under direction, see section 49 (Assistant fisher licence) of the regulation.

- (a) either—
 - (i) the person holds a ‘C3’ licence; or
 - (ii) the holder of a ‘C3’ licence has allowed the person to take or possess spanner crabs under the licence; and
- (b) the primary boat identified in the licence is used to take the crab; and
- (c) the person is a commercial or assistant fisher or is acting under a crew licence.

47 Restriction on writing ‘C3’ fishery symbol on authorities

The chief executive may write a ‘C3’ fishery symbol on a primary licence only if—

- (a) the licence is a replacement licence; or
- (b) it renews the licence.

Division 2 How spanner crabs may be taken

Subdivision 1 General

48 Permitted apparatus—dillies

- (1) A spanner crab may be taken only by using a dilly.
- (2) A dilly may be used only if it complies with subdivision 2 and its use complies with section 49.

49 Dillies—permitted number

- (1) No more than 30 dillies may be used at a time.
- (2) No more than 10 dillies may be set on a line.
- (3) No more than 35 dillies may be on, or attached to, a boat being used to take spanner crabs.

Subdivision 2 Requirements for dillies

50 Frame area

A dilly must have an area within its frame of no more than 1m² and a net drop below its frame of no more than 10cm.

51 Net

- (1) A dilly's net must have only 1 layer of mesh and each mesh in the layer must be square or rectangular.
- (2) The mesh size of the net must be at least 25mm.

52 Identification of dillies

- (1) A dilly must have—
 - (a) a tag with the owner's name written on it or be marked with the owner's boat mark; and
 - (b) a float attached to it or be set on a line that has a float attached to at least 1 of its ends.
- (2) The float must—
 - (a) be at least 15cm in each of its dimensions; and
 - (b) have the owner's boat mark on it; and
 - (c) have a flag attached to it that is at least 2m above the water.

Division 3 Daily quota

53 Daily quota

- (1) The quota of spanner crabs that may be taken or possessed each day under a 'C3' licence is 16 containers of spanner crabs.
- (2) For subsection (1)—
 - (a) a container must be counted as 2 containers if it—

- (i) has a whole spanner crab protruding above its top; or
 - (ii) can not have another container stacked on top of it so that the other container's bottom touches the top of the container on all sides; and
- (b) if the spanner crabs are not held in a container—the number of containers is worked out by dividing the number of crabs taken or possessed by 30.

54 Prohibition

A person fishing in managed area B must not take more spanner crabs than allowed by the daily quota.

55 Exemption

It is not unlawful for a person to unintentionally take more spanner crabs than allowed by the daily quota if the crabs are not intentionally or recklessly injured or damaged and are immediately put back.

Division 4 Carrying spanner crabs

Subdivision 1 Carrier boat licences

56 Restrictions on issuing

The chief executive must not issue a carrier boat licence to carry spanner crabs taken in managed area B for—

- (a) a commercial fishing boat if the boat is a primary boat with a 'C3' licence; or
- (b) a tender boat for a primary boat with a 'C3' licence; or
- (c) a period that ends after 10 years after the notification day.

Subdivision 2 Carrier approvals

57 Chief executive may issue

The chief executive may issue an authority (a *carrier approval*) for the carrying of spanner crabs taken in managed area B or to allow spanner crabs taken in managed area B to be carried under the approval.

58 Who may apply for carrier approval

Only a carrier boat licence holder may apply for a carrier approval.

59 Consideration of application

- (1) The chief executive must refuse the application if more than 2 other carrier approvals are in force.
- (2) A carrier approval may be granted only for a stated term of at least 48 hours and no more than 1 year.
- (3) However, the term must not end after the term of the holder's carrier boat licence.

Subdivision 3 How spanner crabs may be carried

60 Requirements for carrying

A person may carry a spanner crab taken in managed area B or allow a spanner crab taken in managed area B to be carried only if—

- (a) the person holds a carrier boat licence and a carrier approval; and
- (b) the crab is carried on the boat identified in the licence and in the approval; and
- (c) the person does not at the same time carry a spanner crab taken in managed area A.

Maximum penalty—500 penalty units.

61 Person in control must identify spanner crabs

A person in control of a carrier boat must ensure—

- (a) each spanner crab on board the boat is held in a container; and
- (b) the container only holds spanner crabs taken under the same primary licence; and
- (c) the container is marked with the boat mark for the boat used to take the spanner crabs in the container.

Maximum penalty—500 penalty units.

Division 5 Miscellaneous**62 Where spanner crabs may be brought ashore**

A spanner crab may be brought ashore only on the mainland west of longitude 151°45' east.¹⁴

63 Requirements for entering and leaving managed area B

- (1) This section applies if—
 - (a) a commercial fishing boat has been used to take a spanner crab; or
 - (b) the person in control of the boat intends to take a spanner crab in managed area B.
- (2) Before entering or leaving managed area B, the person in control of the boat must notify 1 of the following by telephone that the boat is entering or leaving the area—
 - (a) Link Communications Pty Ltd (ACN 006 085 534);¹⁵

14 This means that a spanner crab taken in managed area B may be brought ashore only on land adjoining managed area B.

15 The telephone number of Link Communications Pty Ltd at the notification day was (07) 3830 4599.

- (b) any other person stated for that purpose in a notice given to the person by the chief executive.

Maximum penalty—500 penalty units.

64 Use of primary boats

A primary boat longer than 20m must not be used.¹⁶

65 Use of tender boats

A tender boat must not be longer than 7m or used more than 800m from its primary boat.

66 Permitted distance for an assistant fisher to be under direction

The permitted distance for an assistant fisher to be under direction is 800m.¹⁷

Part 6 Recreational fishery

Division 1 General

67 Application of pt 6

- (1) This part applies to the taking or possession of spanner crabs by recreational fishers.
- (2) However, this part does not apply to spanner crabs taken in closed waters under part 2A, division 2.¹⁸

16 However, see section 43 (Restrictions on writing fishery symbols on authorities allowing the use of boats of certain lengths in commercial fisheries) of the regulation.

17 For the requirement for an assistant fisher to only use commercial fishing apparatus under direction, see section 49 (Assistant fisher licence) of the regulation.

18 Part 2A (Closed waters declaration), division 2 (Schedule 2A, part 2)

68 Permitted ways of taking spanner crabs

- (1) Spanner crabs may be taken only by using a crab pot, collapsible trap, dilly or inverted dilly (a *crab apparatus*).
- (2) A crab apparatus may be used only if it complies with division 2 and its use complies with section 69.¹⁹

69 Crab apparatus—permitted number

No more than 4 crab apparatus, alone or in combination, may be used at a time.

Division 2 Requirements for crab apparatus**70 Collapsible traps**

A collapsible trap must be made of rigid material and have 1 or more collapsible sides.

71 Inverted dilly—frame

- (1) The frame of an inverted dilly must be made of solid steel and be no more than 1m in each of its dimensions.
- (2) The frame must have a thickness of at least 6mm.

72 Inverted dilly—net

The net of an inverted dilly must be multifilament.

73 Identification of crab apparatus

- (1) A crab apparatus must have a tag with the owner's surname and address written on it.
- (2) Also, if the apparatus is not fixed to something while it is in use, a light coloured float must be attached to the apparatus.

¹⁹ There are also restrictions under part 2 (Closed season declaration) and part 3 (Regulated fish declarations) on the taking and possession of spanner crabs by recreational fishers.

- (3) The float must be at least 15cm in each of its dimensions and have the owner's first name and surname written on it.

Part 7 **Aborigines' and Torres Strait Islanders' fishery**

74 **Aboriginal and Torres Strait Islander rights not affected**

This plan does not limit an Aborigine's or Torres Strait Islander's right to take, use or keep spanner crabs under Aboriginal tradition or Island custom.²⁰

Part 8 **Reviews**

Division 1 **Annual quota reviews**

75 **Review of annual quota**

- (1) The chief executive must conduct a review (a *biennial review*) to fix a proposed amount for the annual quota for the next 2 years starting after the review.
- (2) The biennial review must—
- (a) be conducted in 2004 and every second year after 2004; and
 - (b) end before 1 March in the year of the review.

²⁰ For the right of Aborigines or Torres Strait Islanders to take fisheries resources, see section 14 (Aborigines' and Torres Strait Islanders' rights to take fisheries resources etc.) of the Act.

76 Review rules

- (1) In conducting a biennial review, the chief executive must make rules (*review rules*) for it to fix the proposed amount for the annual quota for the next 2 years.
- (2) Review rules must be based on the representative stock abundance of spanner crabs in managed area A, worked out by a recognised scientific method.
- (3) Before the start of the biennial review the chief executive must give a copy of the review rules for the next 2 years to each person who holds a 'C2' licence.

77 Notice of result of review

- (1) The chief executive must, as soon as practicable after each biennial review, give a notice to each person who holds a 'C2' licence.
- (2) The notice must state—
 - (a) the outcome of the review; and
 - (b) whether the chief executive proposes to amend this plan to decrease or increase the amount of the annual quota for the next 2 years; and
 - (c) by how much the chief executive proposes to decrease or increase the amount.

Division 2 Other reviews**78 Dilly review**

- (1) The chief executive must on 1 June 2001, start a review (the *dilly review*) of the provisions of this plan concerning the number of dillies that may be used or set on a line in managed area A.
- (2) However, the chief executive may start the dilly review before 1 June 2001.

79 General review

- (1) The chief executive must review this plan to decide whether its provisions remain appropriate (*general review*).
- (2) The general review must start at least 5 years, but no more than 9 years, after the notification day.

80 Consultation requirements for other reviews

- (1) In conducting the dilly review or general review, the chief executive must take reasonable steps to engage in consultation about—
 - (a) for the dilly review—the provisions of this plan concerning the number of dillies that may be used or set on a line in managed area A; or
 - (b) for a general review—all provisions of this plan.
- (2) When the review starts the chief executive must give notice of the following—
 - (a) that this plan is being reviewed;
 - (b) that a management plan review paper is available for comment;
 - (c) where the paper can be obtained;
 - (d) that a person may make written comments to the chief executive on the paper;
 - (e) the address to which the comments may be made;
 - (f) the period, of at least 2 months after the notice is given, during which the chief executive will accept comments.
- (3) After considering any comments made in the 2 month period, the chief executive must give notice of where the results of the review can be obtained.
- (4) A notice required to be given by the chief executive under this section must be given by publication in the gazette and a newspaper circulating generally throughout the State.

Part 9 Miscellaneous

82 **Taking spanner crabs in more than 1 managed area**

A person who takes a spanner crab (the *first crab*) in managed area A or B must not take a crab in the other managed area until the first crab has been brought ashore on the mainland.

83 **Buyer licences—conditions**

A buyer licence held is subject to the condition that the holder of the licence must—

- (a) ensure details of premises used by the holder to keep spanner crabs are included in the register of authorities kept under section 73²¹ of the Act; and
- (b) allow the premises to be open for inspection.

84 **Serious fisheries offences**

For the definition *serious fisheries offence* in section 4 of the Act, an offence against fisheries legislation about any of the following is a serious fisheries offence²²—

- (a) contravening the closed season declaration under section 6;²³
- (b) contravening a quota under this plan;²⁴
- (c) taking spanner crabs in a prohibited way;²⁵
- (d) possessing spanner crabs unlawfully taken for trade or commerce;²⁶

21 Section 73 (Registers of authorities and fisheries development approvals) of the Act

22 Section 108 (Serious fisheries offences) of the regulation, also prescribes offences under this plan as serious fisheries offences.

23 Section 6 (Spawning closure)

See section 77 (Closed season and closed waters offences) of the Act.

24 See section 79 (Quota offences) of the Act.

25 See section 80 (Fish not to be taken in prohibited way) of the Act.

26 See section 52(d) (Commercial fisher licence) of the regulation.

- (e) failing to give the chief executive a return for spanner crabs;²⁷
- (f) giving the chief executive a return for spanner crabs containing information that the person who gave the return knows is false, misleading or incomplete in a material particular;²⁸
- (g) contravening section 41, 60 or 63(2).²⁹
- (h) obstructing, hindering or resisting an inspector exercising a power in relation to the fishery.³⁰

85 Criteria for suspending certain authorities—convictions

- (1) This section applies to an authority as follows if the authority holder has been convicted (*conviction*) of a serious fisheries offence mentioned in section 84—
 - (a) a commercial fisher licence;
 - (b) a commercial fishing boat licence;
 - (c) a buyer licence;
 - (d) an ITQ unit.
- (2) However, this section does not apply if the conviction is a spent conviction.
- (3) For section 68B(4)(b)(i)³¹ of the Act, the criteria prescribed for a court suspending the authority are—
 - (a) if the conviction is for an offence mentioned in section 84(a) or (c) to (h), for the holder's—
 - (i) first conviction—2 to 3 months suspension; or

27 See section 118 (Statistical returns to be kept) of the Act and section 109 (Statistical returns to be kept—general) of the regulation.

28 See section 176 (False, misleading or incomplete documents) of the Act and section 109 (Statistical returns to be kept—general) of the regulation.

29 Section 41 (Person in control must identify spanner crabs), 60 (Requirements for carrying) or 63 (Requirements for entering and leaving managed area B)

30 See section 182 (Obstruction etc. of inspector) of the Act.

31 Section 68B (Suspension or cancellation of authority by court) of the Act

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- (ii) second conviction—6 months to 1 year's suspension; or
 - (iii) third or subsequent conviction—1 to 5 years suspension; or
 - (b) if the conviction is for an offence mentioned in section 84(b), for the holder's—
 - (i) first conviction—1 year's suspension; or
 - (ii) second or subsequent conviction—1 to 5 years suspension.
- (4) In this section—

spent conviction means a conviction—

 - (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
 - (b) that is not revived as prescribed by section 11 of that Act.

86 Additional criteria for suspending ITQ unit—failure to pay fee

- (1) This section applies to an ITQ unit if the holder of the unit has not paid the whole of an amount for a fee payable under the Act for the unit.
- (2) For section 67(2)(b)(i) of the Act, the criteria prescribed for suspending the unit is suspension of the unit until the whole of the amount is paid.

Part 10 Savings and transitional

Division 1 Issue of ITQ units

Subdivision 1 Preliminary

87 Definitions for div 1

In this division—

eligible licence means—

- (a) a ‘C2’ licence; or
- (b) a primary licence with a ‘C4’, ‘C5’ or ‘C6’ fishery symbol written on it; or
- (c) a written approval from the chief executive for a ‘C2’, ‘C4’, ‘C5’ or ‘C6’ fishery symbol to be written on a primary licence.

eligible person means a person who holds an eligible licence on the notification day.

fishery’s reported catch means the reported catch under all eligible licences and their former licences, fixed under subdivision 4.

former Authority Act means the *Fishing Industry Organisation and Marketing Act 1982*.

former licence, of an eligible licence, means a licence that—

- (a) the eligible licence replaced or renewed; or
- (b) expired before the eligible licence was issued that—
 - (i) authorised the same, or substantially the same, things; and
 - (ii) was issued to the same person as the holder of the eligible licence when it was issued; or
- (c) was replaced or renewed by a former licence under paragraph (a) or (b); or

- (d) expired before the issue of a former licence under paragraph (a), (b) or (c) that—
 - (i) authorised the same, or substantially the same, things; and
 - (ii) was issued to the same person as the holder of the former licence when it was issued.

Subdivision 2 Issue of ITQ units

88 Chief executive must issue ITQ units

- (1) The chief executive must, on or before 1 June 1999, issue to each eligible person an amount of ITQ units worked out under subdivisions 3 and 4.
- (2) The chief executive is taken to have complied with the obligation under subsection (1) if, for each eligible person the chief executive—
 - (a) gives the person an ITQ certificate for the first quota year; and
 - (b) records in the register of authorities kept under section 73 of the Act, the information for the ITQ units mentioned in section 62³² of the regulation.

89 When ITQ units take effect

The ITQ units take effect on 1 June 1999.

32 Section 73 (Registers of authorities and fisheries development approvals) of the Act
Section 62 (Particulars to be contained in register of authorities) of the regulation

Subdivision 3 Working out amount of ITQ units to be issued

90 Amount to be issued

- (1) The amount of ITQ units that must be issued to each eligible person is the amount worked out under section 91.
- (2) Despite, subsection (1), if the amount of ITQ units to be issued to an eligible person worked out under section 91 is less than 18 units, 18 units must be issued to the person.

91 Formula for amount

- (1) To work out the amount of ITQ units, the chief executive must apply the following formula—

$$\text{ITQ units} = \frac{(0.5 + \text{IRC} \times 2671.5) \times 100000}{2800}$$

where—

IRC means the proportion of the reported catch of spanner crabs under the eligible licence and its former licences in managed area A during the period 1 January 1990 to 4 October 1996 of the fishery's reported catch for the period.³³

- (2) For subsection (1)—
 - (a) the reported catch must be fixed under subdivision 4; and
 - (b) the proportion must be fixed by dividing the reported catch by the fishery's reported catch.
- (3) If after applying the formula the amount (the *worked out amount*) is not a whole number of ITQ units, the amount of ITQ units is taken to be—

³³ The figure 0.5 represents half a tonne. This weight equates to the weight of the minimum number of units (18) that must be issued.

The figure of 2671.5 represents the first annual quota of 2800t under sections 21 and 22 less the total of the minimum issues of 128.5.

The figure of 100000 is the minimum number of ITQ units to be issued.

- (a) for a number ending in a decimal fraction less than 0.5—the nearest whole number, rounded down; or

Example—

a worked out amount of 25.329 is taken to be 25 ITQ units

- (b) for a number ending in 0.5—the nearest even whole number; or

Example—

a worked out amount of 26.5 is taken to be 26 ITQ units

a worked out amount of 27.5 is taken to be 28 ITQ units

- (c) for a number ending in a decimal fraction more than 0.5—the nearest whole number, rounded up.

Example—

a worked out amount of 25.729 is taken to be 26 ITQ units

Subdivision 4 Fixing reported catch

92 Purpose of sdiv 4

This subdivision provides for how the reported catch under the eligible licence and its former licences must be fixed.

93 Logbook returns that must be used

- (1) The reported catch must be fixed only from logbook returns given by the holder of the eligible licence or its former licences under the Act or the former Authority Act.
- (2) The chief executive must not use a logbook return for fixing the reported catch if the return was—
 - (a) from a logbook issued after 4 October 1996; or
 - (b) received after 1 October 1998.
- (3) Despite subsection (2), the Authority must also use a completed logbook return from a logbook issued before 4 October 1996 that was received from 2 October 1998 to 31 January 1999 if—

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- (a) the licensee or former licensee gives the chief executive the return and the required documents for the return; and
 - (b) the total weight or number of spanner crabs mentioned in the required documents equals the weight or number of spanner crabs recorded in the return.
- (4) In this section—
- required documents***, for a logbook return, means—
- (a) a statutory declaration by the licensee or former licensee and by each person who bought any of the spanner crabs in the catch recorded in the return stating—
 - (i) how many spanner crabs were sold or the weight of the spanner crabs sold; and
 - (ii) when the crabs were sold; and
 - (b) for each sale to each person who bought any of the spanner crabs, either—
 - (i) a copy of the required docket under section 86 of the Act or a docket to evidence the sale under section 44 of the former Authority Act;³⁴ or
 - (ii) an original statement by a financial institution for an account of the licensee or former licensee with the institution that recorded the deposit of the proceeds of the sale into the account.

94 Adjustment for transfers from 1990 to 21 January 1994

- (1) This section applies if—
- (a) the eligible licence was transferred to the holder on a day (the ***transfer day***) after 31 December 1989 but before 22 January 1994; and
 - (b) the holder held the licence continually from the transfer day to the day the chief executive issues ITQ units to the holder under this division; and

³⁴ Section 86 (Dockets for wholesale sale of fisheries resources etc.) of the Act or section 44 (Dockets to evidence the sale of fish) of the former Authority Act.

- (c) the holder's proportion of the fishery's reported catch from the transfer day to 4 October 1996 was more than the proportion of the reported catch under the licence or its former licences of the fishery's reported catch from 1 January 1990 to the transfer day.
- (2) The reported catch under the eligible licence or its former licences is taken to be the reported catch worked out by applying the following formula—

$$RC = UFRC \times \frac{LRC}{FRC}$$

where—

RC means the reported catch.

UFRC means the fishery's reported catch from 1 January 1990 to 4 October 1996 other than for this section.

LRC means the reported catch under the eligible licence from the transfer day to 4 October 1996.

FRC means the fishery's reported catch from the transfer day to 4 October 1996.

95 No adjustment for area or seasonal abundance

In fixing the reported catch, the chief executive must not adjust the catch to take account of—

- (a) where the spanner crabs were taken; or
- (b) seasonal abundances of spanner crabs.

Division 2 Provisions that commence on 1 June 1999

96 Fishery symbols (other than a 'C3' fishery symbol)

If, immediately before 1 June 1999, a primary licence has a 'C2', 'C4', 'C5 or 'C6' fishery symbol written on it, on 1 June 1999—

- (a) the 'C4', 'C5' or 'C6' fishery symbols are taken to be removed from the licence; and
- (b) the licence is taken to only have 1 'C2' fishery symbol written on it; and
- (c) the licence is also taken to have a 'C3' symbol written on it for each 'C2' or 'C6' fishery symbol written on it immediately before 1 June 1999.

97 Approvals for fishery symbol (other than for a 'C3' fishery symbol)

- (1) This section applies if, immediately before 1 June 1999, a person holds a written approval for a 'C2', 'C4', 'C5' or 'C6' fishery symbol to be written on a primary licence.
- (2) On 1 June 1999 the approval is taken to be an approval for—
 - (a) only 1 'C2' fishery symbol to be written on the licence; and
 - (b) if the approval was for the writing of a 'C2' or 'C6' fishery symbol on the licence—the writing of a 'C3' fishery symbol on the licence for each 'C2' or 'C6' fishery symbol to which the approval relates.

98 'C3' licences from 1 June 1999

If, immediately before 1 June 1999, a primary licence had a 'C3' fishery symbol written on it, from 1 June 1999 the licence continues in force under this plan, with the fishery symbol written on it.

99 Approval for 'C3' fishery symbol

If, immediately before 1 June 1999, a person held a written approval for a 'C3' fishery symbol to be written on a primary licence, from 1 June 1999 the approval continues in force under this plan.

100 Existing carrier boat licences

A carrier boat licence that allowed the carrying of spanner crabs taken in managed area A held immediately before 1 June 1999 continues in force under this plan for managed area A.

Schedule 1 The fishery

section 3(2) and (3)

Part 1 Description**Division 1 Fishery's area****1 Area**

The fishery's area is managed areas A and B.

Division 2 Spanner crabs**2 Fish species taken—spanner crabs**

- (1) The fish species taken in the fishery are spanner crabs (*Ranina ranina*).
- (2) The spanner crab's family name is Raninidae.
- (3) Spanner crabs also have the common names of red frog crab and Kona crab (in Hawaii).

3 Global distribution

Spanner crabs are found in—

- (a) the Indo-Pacific region, from the east coast of southern Africa to Hawaii, the Philippines and southern Japan; and
- (b) eastern Australia, from the Great Barrier Reef area south to Nowra, but are concentrated between Yeppoon and Ballina; and
- (c) Western Australia, between Quinn's Rocks, north of Perth, and the Houtman Abrolhos Island.

Schedule 1 (continued)**4 Reproduction**

- (1) Spanner crabs gather to spawn in the warmer months, from October to February.
- (2) Unlike the portunid crabs (blue swimmer and mud crabs), spanner crabs can probably mate at any stage of the moult cycle.
- (3) There is a distinct spawning period, but female crabs can produce several batches of eggs each season, depending on their size.
- (4) Spanner crabs produce less eggs than portunid crabs—between 60000 and 160000 eggs in each batch.

5 Life cycle

- (1) The spanner crab's incubation period lasts from 4 to 5 weeks.
- (2) After incubation, the eggs hatch into the first of an 8 stage pelagic zoeal larva spanning between 5 and 8 weeks.
- (3) The final megalopa stage settles on a suitable substrate (if available) and metamorphoses into a juvenile spanner crab.
- (4) Most female spanner crabs mature at a carapace length of 70 to 75mm, although mature individuals as small as 64mm have been recorded.
- (5) Ovary development seems to occur earlier in the northern part of the crab's range.

6 Diet and feeding

- (1) Spanner crabs remain buried beneath sand, other than when feeding or reproducing.
- (2) Spanner crabs are opportunistic feeders—their diet under natural conditions probably consists mainly of heart urchins, brittle-stars, shellfish, small crustaceans and polychaete worms.
- (3) In areas where there is a trawl fishery for prawns or scallops, spanner crabs appear to use discarded trawl catch.

Schedule 1 (continued)

7 Habitat requirements

The spanner crab's preferred juvenile and adult habitat is clean, well-sorted sand in an oceanic environment.

8 Natural predators

- (1) Turtles, sharks, rays and large benthic predatory fish are believed to be the major natural predators of adult spanner crabs.
- (2) There is ample evidence of spanner crabs being eaten from tangle nets, both by sharks and turtles.
- (3) Newly settled juvenile spanner crabs are vulnerable to a wide range of predators, mainly fish and rays.

9 Parasites and disease

- (1) No obvious parasites or diseases have been reported in spanner crabs.
- (2) The crab does not appear to be susceptible to the parasitic barnacles (*Sacculina granifera*) that infest part of the sand crab population.

10 Growth

- (1) Newly settled spanner crabs grow quickly, reaching 30mm probably in 3 or 4 weeks.
- (2) Moulting increments may be as much as 12 to 16mm in males and 5 to 9mm in female spanner crabs, with an average of 1 moult a year.
- (3) Preliminary estimates based on New South Wales tagging data suggest a lifespan of 7 to 8 years, with male spanner crabs reaching a maximum size of about 150mm carapace length and a weight of 1 kg.
- (4) Female spanner crabs are significantly smaller (presumably because of slower growth rates), reaching a maximum size of 120mm carapace length and an equivalent weight of 400g.

Schedule 1 (continued)**11 Mortality**

No reliable estimates of either natural or total mortality are available for spanner crabs.

12 Migration and movement patterns

- (1) Some localised movement occurs, as spanner crabs appear to gather in some localities before spawning.
- (2) Significant migration patterns have not been documented.

13 Stock-recruitment relationship

- (1) No estimates of stock-recruitment relationships of spanner crabs are available.
- (2) However, spanner crab recruitment patterns are almost certainly driven largely by environmental factors, particularly the timing and direction of oceanic water currents during, and for the weeks following, spawning when they are planktonic.

Division 3 Fishery symbols and boats**14 Fishery symbols—numbers**

On 2 August 1998 the number of fishery symbols that authorised the use of a boat to take spanner crabs for trade or commerce in the fishery's area was as follows—

- (a) 213 'C2'—for managed areas A and B;
- (b) 288 'C3'—for managed area B only;
- (c) 18 'C4'—for waters south of latitude 25° south and east of the territorial sea baseline;
- (d) 25 'C5'—for waters south of latitude 25° south and east of the territorial sea baseline;
- (e) 1 'C6'—for waters north of latitude 25° south.

Schedule 1 (continued)

15 Other fishery symbols

- (1) An authority with a symbol mentioned in section 14 of this schedule may also have another fishery symbol written on it that allows fishing in another fishery.

Examples of another fishery—

line fishing, net fishing and trawling

- (2) Authorities with the symbols 'C2' and 'C3' for the fishery also have other symbols that allow the taking of other crab species written on them.

Division 4 Fishing methods and apparatus

Subdivision 1 Commercial fishery

16 Fishing apparatus

- (1) Only dillies may be used in the commercial fishery.
- (2) Up to 30 dillies may be used at a time, usually deployed in 3 'strings' or trot-lines of no more than 10 dillies.
- (3) The dillies must—
 - (a) have a rigid frame with an area of no more than 1m²; and
 - (b) be covered by only 1 mesh and the mesh must have a mesh size of 25mm.
- (4) To reduce excessive entanglement, and consequently clearing time and damage to the gear, the mesh must be strung fairly tightly across the frame, so that the mesh does not hang more than 10cm below the frame in the centre.

17 Using apparatus

- (1) A bait bag, that usually contains a few pilchards or other appropriate bait, is attached to the centre of the dilly's net, and the dilly is attached to the trot-line by a short lanyard.

Schedule 1 (continued)

- (2) The dillies—
 - (a) are spaced about 10 to 40m apart, depending on the density of spanner crabs on the fishing grounds along the trot-line; and
 - (b) rest horizontally on the sea-floor.
- (3) Each string of nets is marked by a dan buoy (a float with a conspicuous flag attached) at one end.

18 Fishing times

- (1) The dillies are set for about 45 minutes, as it has been found that longer soak-times do not yield equivalent increases in catch.
- (2) Fishing happens almost exclusively in daylight hours.

Subdivision 2 Recreational fishery**19 Recreational fishery**

- (1) Recreational fishing may be carried out only by using a crab apparatus.
- (2) There are no restrictions on the dimensions of crab apparatus.
- (3) However, no more than 4 crab apparatus may be used at a time.

Subdivision 3 Aborigines' and Torres Strait Islanders' fishery**20 Aborigines' and Torres Strait Islanders' fishery**

The chief executive does not have reliable information about the taking or use of spanner crabs by Aboriginal or Torres Strait Island fishers for tradition or custom.

Schedule 1 (continued)

Division 5 Closed season**21 Spawning closure**

To protect spawning spanner crabs, the fishery is closed from midday on 20 November to midday on 20 December.

Part 2 Known status**Division 1 Commercial fishery****22 Logbook program**

- (1) Information from the commercial logbook program for the fishery is the primary basis for deciding the fishery's current status.
- (2) The program records the following—
 - (a) actual, but not potential, fishing effort;
 - (b) location of fishing effort;
 - (c) fluctuations in catch over seasons and between locations;
 - (d) changes in the amount of spanner crabs caught by a person compared with the amount of effort applied by the person to catch the crabs.³⁵

Example of effort—

the number of days over which the person fished

³⁵ The ratio of the compared amounts is commonly called 'CPUE' or catch per unit of effort.

Schedule 1 (continued)

23 Markets

- (1) Most of the commercial catch of spanner crabs is exported.
- (2) Taiwan is the major export market for spanner crabs, accounting for 80% of the export.
- (3) There is a small, but growing, domestic market for live and frozen product.
- (4) The gross value of production of the wholesale commercial fishery is estimated at \$18m each year.

24 Catch levels

- (1) The monthly catch of spanner crabs from 1988 to July 1998 is shown in the table at the end of this division.
- (2) The reported annual catch for the 1996 to 1997 financial year was approximately—
 - (a) for managed area A—2680t; and
 - (b) for managed area B—230t.

Schedule 1 (continued)

TABLE

schedule 1, section 24

TOTAL MONTHLY SPANNER CRAB CATCH (t) IN MANAGED AREAS A AND B FROM 1988 TO 1998

Month	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
January	12	19	30	54	54	160	159	216	278 (3)	437 (5)	234 (<1)
February	32	11	33	28	48	141	234	192	280 (4)	440 (4)	240 (<1)
March	22	18	10	64	59	133	223	344	203 (4)	217 (1)	108 (1)
April	20	20	31	74	71	123	228	174	355 (1)	102 (4)	247 (1)
May	41	25	40	64	94	163	394	229	222 (<1)	296 (2)	173 (0)
June	32	29	37	100	87	136	199	195	331 (5)	171 (1)	0 (0)
July	39	59	64	98	118	179	224	303	310 (16)	272 (2)	150 (0)
August	36	71	52	78	160	268	362	279	168 (46)	360 (3)	
September	93	66	95	123	197	286	557	502	402 (64)	344 (5)	
October	65	80	83	97	267	406	581	406	135 (66)	451 (10)	
November	18	52	61	85	160	292	414	181	0 (12)	132 (9)	
December	26	16	10	16	44	108	72	57	0 (4)	0 (0)	
TOTAL	463	466	546	881	1359	2395	3647	3078	2684 (225)	3222 (49)	1152 (<4)

Schedule 1 (continued)**Notes for table—**

- 1 From 20 December 1995 catches were subject to daily catch quotas.
- 2 In 1996 there were 2 'no fishing' periods, namely from 10 August to 8 September and from 5 October to 31 December.
- 3 The catch in managed area B for 1996 to 1998 is listed in brackets.
- 4 The catch in managed area A for the 1996 to 1997 fishing year was 2678t.
- 5 The catch in managed area A for the 1997 to 1998 fishing year was 2561t.

Division 2 Recreational fishery**25 Recreational fishery**

- (1) The size of the spanner crab's recreational catch is unknown, but is believed to be of minor significance compared to the commercial catch.
- (2) However, the department's creel censuses between the Gold Coast and the Sunshine Coast shows that—
 - (a) about 32000 spanner crabs (estimated 10 to 20t) were landed by recreational fishers in 1995 and 1996; and
 - (b) most of the spanner crabs were taken offshore from the Gold Coast and Mooloolaba.

Division 3 Aborigines' and Torres Strait Islanders' fishery**26 Aborigines' and Torres Strait Islanders' fishery**

The chief executive does not have reliable information about the taking or use of spanner crabs by Aboriginal or Torres Strait Island fishers for tradition or custom.³⁶

³⁶ For the right of Aboriginal or Torres Strait islander fishers to take fisheries resources see section 14 (Aborigines' and Torres Strait Islanders' rights to take fisheries resources etc.) of the Act.

Schedule 2 How objectives are to be achieved

section 4(2) and (3)

Part 1 Ecologically sustainable use of spanner crabs

1 Definition for pt 1

In this part—

objective means the objective of ensuring spanner crabs are used in an ecologically sustainable way.

2 How objective is to be achieved

The objective is to be achieved by—

- (a) limiting the annual commercial harvest of spanner crabs from managed area A by an annually adjusted quota based on best scientific estimates of sustainable yield; and
- (b) regulating spanner crabs under part 3³⁷ of this plan.

3 How achievement is to be measured

Achievement of the objective may be measured only by—

- (a) the annual commercial catch of spanner crabs in managed area A; and
- (b) the abundance of—
 - (i) spawning spanner crabs; or
 - (ii) egg-bearing spanner crabs; or
 - (iii) juvenile spanner crabs.

³⁷ Part 3 (Regulated fish declarations) of this plan

Schedule 2 (continued)

- (b) commercial fishing catch and effort data for spanner crabs received by the chief executive.

8 Review event

It is a review event for the achievement of the objective if—

- (a) the chief executive accepts a survey of recreational, Aboriginal or Torres Strait Islander fishing for spanner crabs that shows a significant decline in spanner crab catches; or
- (b) the chief executive's receipt of commercial fishing catch and effort data for spanner crabs that shows a significant decline in the commercial catch of spanner crabs.

Part 3 Managing the commercial fishery to achieve optimal, but sustainable, economic efficiency**9 Definition for pt 3**

In this part—

objective means the objective of managing the commercial fishery to achieve optimal, but sustainable, economic efficiency.

10 How objective is to be achieved

The objective is to be achieved by—

- (a) providing for adequate access to spanner crabs by commercial fishers; and

Schedule 2 (continued)

- (b) including ITQ provisions in this plan to help meet the economic needs of individual fishers;³⁸ and
- (c) minimising restrictions on the flexibility of commercial spanner crab operations.

11 How achievement is to be measured

Achievement of the objective may be measured only by—

- (a) the annual commercial catch of spanner crabs in managed area A; and
- (b) the extent of ITQ unit transactions; and
- (c) data obtained from economic studies of the commercial fishery accepted by the chief executive.

12 Review event

It is a review event for the achievement of the objective if—

- (a) the annual commercial catch of spanner crabs in managed area A significantly declines; or
- (b) a significant number of commercial fishers are consistently unable to obtain ITQ units by transfer; or
- (c) the chief executive accepts an economic study of the commercial fishery that shows a significant decline in the economic efficiency of the fishery.

Part 4 Ensuring a fair division of access to spanner crabs**13 Definition for pt 4**

In this part—

³⁸ For the ITQ provisions, see part 4, division 4 of this plan.

Schedule 2 (continued)

objective means the objective of ensuring a fair division of access to spanner crabs among commercial, recreational and Aboriginal and Torres Strait Islander fishers.

14 How objective is to be achieved

The objective is to be achieved by providing for adequate access to spanner crabs for commercial, recreational and Aboriginal and Torres Strait Islander fishers by allowing—

- (a) the commercial taking of spanner crabs under the quota management schemes under part 4, divisions 3 and 4 and part 5, division 3 of this plan; and
- (b) recreational and Aboriginal and Torres Strait Islander fishers to take spanner crabs under this plan.

15 How achievement is to be measured

Achievement of the objective may be measured only by—

- (a) the annual commercial catch of spanner crabs in managed area A; and
- (b) surveys accepted by the chief executive of recreational, Aboriginal or Torres Strait Islander fishing for spanner crabs.

16 Review event

It is a review event for the achievement of the objective if—

- (a) the annual commercial catch of spanner crabs in managed area A significantly declines; or
- (b) the chief executive accepts a survey of recreational, Aboriginal or Torres Strait Islander fishing for spanner crabs that shows a significant change in catches of spanner crabs.

Schedule 2A Water closures

sections 8A(1) and 8C(1) and schedule 3, part 1, section 4A(1)

Part 1 Wolf Rock grey nurse shark protection area closure

1 Wolf Rock

Waters within a 1.2km radius of latitude 25°54.60' south,
longitude 153°11.85' east.

Part 2 Other grey nurse shark protection area closures

2 Flat Rock

Waters within a 1.2km radius of latitude 27°23.41' south,
longitude 153°33.07' east.

3 Henderson Rock

Waters within a 1.2km radius of latitude 27°07.92' south,
longitude 153°28.71' east.

4 Cherub's Cave

Waters within a 1.2km radius of latitude 27°07.67' south,
longitude 153°28.67' east.

Schedule 3 Aids to interpretation and definitions

section 5

Part 1 Provisions aiding interpretation

1 Measuring carapace or sternite length

- (1) A spanner crab's carapace length is decided by measuring the shortest distance between—
 - (a) the tip of the spike at the middle of the front edge of its carapace; and
 - (b) the mid point of the rear edge of its carapace.
- (2) A spanner crab's sternite is measured at the widest part of the front of its breastplate, located directly in front of the bases of the main claws.

2 References to possession of fish

- (1) This section applies if a provision of this plan prohibits possession of a spanner crab.
- (2) To remove any doubt, it is declared that the reference to possession in the provision is a reference to possession wherever it takes place.

3 Fishing under primary licence includes tender licence

A reference to a person fishing under a primary licence in the fishery includes a reference to a person fishing under a tender licence for a tender boat for the primary boat identified in the primary licence.

Schedule 3 (continued)

4 Meaning of *under direction* for an assistant fisher

An assistant fisher is under direction if the assistant fisher and a commercial fisher are engaged in the same fishing operation and the assistant fisher and commercial fisher—

- (a) are at the same place, in the same vehicle or on the same commercial fishing boat; or
- (b) are not at the same place, in the same vehicle or on the same commercial fishing boat but—
 - (i) are no further apart than the distance permitted under this plan for an assistant fisher to be under direction; and
 - (ii) the assistant fisher is following the commercial fisher's instructions.

4A References to latitudes and longitudes—sch 2A

- (1) Latitudes and longitudes mentioned in schedule 2A⁴⁰ are worked out using WGS 84.⁴¹
- (2) In this section—

WGS 84 means the 'World Geodetic System 1984' (commonly called 'WGS 84') defined in the technical report titled 'Department of Defense—World Geodetic System 1984—Its Definition and Relationships with Local Geodetic Systems', third edition, published by the (US) National Imagery and Mapping Agency.⁴²

40 Schedule 2A (Water closures)

41 See also section 2A (References to latitudes and longitudes) of the regulation.

42 The technical report may be accessed on the Internet at the website of Geoscience Australia at <www.ga.gov.au>. At the commencement of this section, the report could be accessed at <www.ga.gov.au/nmd/geodesy/datums/wgs.jsp>.

Schedule 3 (continued)

Part 2 Extended definitions**5 Meaning of *length* of a commercial fishing boat**

- (1) *Length*, of a commercial fishing boat, means the distance between the front and end tips of the boat.
- (2) However, the length does not include anything that does not increase the boat's effective length.

Examples of things that do not increase a boat's effective length—

- 1 an anchor rail
- 2 a bowsprit

Example of things that do increase a boat's effective length—

additions to the boat's hull (whether fixed temporarily or permanently) that increase the boat's deck area

6 Meaning of *mesh size* of a net

- (1) *Mesh size*, of a knotted mesh net, is the average distance, when the net is taut, between the inner edges of 2 diagonally opposite knots of each of 10 meshes at least 30cm from each other.
- (2) *Mesh size*, of a knotless mesh net, is the average distance, when the net is taut, between the inner edges of 2 diagonally opposite corners of each of 10 meshes at least 30cm from each other.

Part 3 Dictionary

annual quota means the annual quota under section 21 for managed area A.

assistant fisher means a person who holds an assistant fisher licence.

biennial review, for part 8, see section 75(1).

Schedule 3 (continued)

boat mark, for a boat, means a boat mark for the boat required by the chief executive under section 103⁴³ of the regulation.

buyer means a person who holds a buyer licence.

buyer licence means a buyer licence issued under section 30⁴⁴ of the regulation.

‘C2’ licence means a primary licence with a ‘C2’ fishery symbol written on it or that is taken to have a ‘C2’ fishery symbol written on it.

‘C3’ licence means a primary licence with a ‘C3’ fishery symbol written on it or that is taken to have a ‘C3’ fishery symbol written on it.

carapace length, of a spanner crab, means the length of the crab measured under section 1(1) of this schedule.

carrier approval see section 57.

carrier boat means the boat identified in a carrier boat licence.

carrier boat licence means a carrier boat licence issued under section 30 of the regulation.⁴⁵

commercial fisher means a person who holds a commercial fisher licence.

commercial fisher licence means a commercial fisher licence issued under section 30 of the regulation.

commercial fishery means a fishery described in part 4 or 5.

commercial fishing boat means a primary boat or a tender boat.

commercial fishing boat licence means a commercial fishing boat licence issued under section 30 of the regulation.

43 Section 103 (Placing mark on boat) of the regulation

44 Section 30 (Licences chief executive may issue) of the regulation

45 Section 30 (Licences chief executive may issue) of the regulation. See also section 51 (Carrier boat licence) of the regulation.

Schedule 3 (continued)

container, of spanner crabs, means a container with a capacity of no more than 66L.⁴⁶

crab apparatus see section 68(1).

crab pot means fishing apparatus consisting of a cage with a round opening in the top, or an elongated opening (parallel to the base) in the side, for trapping crabs.

dilly means fishing apparatus consisting of a frame and a net that hangs below the frame's horizontal plane when the apparatus is in use.

dilly review, for part 8, see section 78(1).

entitlement, of an ITQ unit holder, see section 27.

fisher means a person who holds a fisher licence.

fishery symbol means the fishery symbol 'C2', 'C3', 'C4', 'C5' or 'C6'.

general review, for part 8, see section 79(1).

inverted dilly means fishing apparatus consisting of a frame and a net with a float attached so the net is above the frame's horizontal plane when the apparatus is in use, and includes fishing apparatus known as a suicide dilly or witch's hat.

ITQ means individual transferable quota.

ITQ certificate see section 30(1).

ITQ unit means an ITQ unit issued under section 23 and part 10, division 1.

length, of a commercial fishing boat, see section 5 of this schedule.

managed area A means all tidal waters south of latitude 23° south, and east of longitude 151°45' east.

managed area B means the following tidal waters—

⁴⁶ An empty container that has internal dimensions of 571mm x 381mm x 305mm has a capacity of approximately 66L. Containers used to hold spanner crabs are commonly called 'baskets'.

Schedule 3 (continued)

- (a) waters north of managed area A and east of longitude 142°31'49" east;
- (b) waters north of latitude 10°48' south and between longitude 141°20' east and longitude 142°31'49" east;
- (c) waters in the Gulf of Carpentaria between the 25n mile line and the shore of the mainland at high water mark, south of latitude 10°48' south.

mesh size, of a net, see section 6 of this schedule.

notice means written notice.

notification day means the day this plan is gazetted.

plan means management plan.

primary boat means the commercial fishing boat identified in a primary licence.

primary licence means a primary boat licence.

quota year, for an annual quota, see section 22.

recreational fisher means a person, including a fisher, who takes or possesses fish other than for trade or commerce.

regulation means the *Fisheries Regulation 1995*.

replacement licence means—

- (a) a replacement licence issued under section 71 of the Act to replace a licence that has been lost, damaged or destroyed; or
- (b) a licence for a boat to replace another boat licensed to operate in the fishery.

review rules, for part 8, see section 76(1).

spanner crab means the spanner crab, as described in schedule 1, part 1, division 2.

tender boat means a commercial fishing boat identified in a tender licence.

tender licence means a tender boat licence.

Schedule 3 (continued)

territorial sea baseline means the baseline adjacent to the coast of the State as for the time being decided under the *Seas and Submerged Lands Act 1973* (Cwlth), section 7(2)(b).⁴⁷

the 25n mile line means a line parallel to the territorial sea baseline and 25n miles out to sea.

the fishery see section 3(1) of this plan.

under direction, for an assistant fisher, see section 4 of this schedule.

used, for an ITQ unit, see section 28.

⁴⁷ *Seas and Submerged Lands Act 1973* (Cwlth), section 7 (Limits of territorial sea)

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 16 June 2006. Future amendments of the Fisheries (Spanner Crab) Management Plan 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 June 1999	4 June 1999
1A	2000 SL No. 211	11 August 2000	6 September 2000
1B	2001 SL No. 63	1 June 2001	8 June 2001
1C	2002 SL No. 126	1 June 2002	13 June 2002

Reprint No.	Amendments included	Effective	Notes
1D	2002 SL No. 338 2002 SL No. 340	6 December 2002	
1E	2003 SL No. 31	28 February 2003	
1F	2003 SL No. 215	12 September 2003	R1F withdrawn, see R2
2	—	12 September 2003	
2A	2003 SL No. 261	31 October 2003	
2B	2003 SL No. 379	19 December 2003	
2C	2004 SL No. 111	25 June 2004	
2D	2005 SL No. 27	4 March 2005	R2D withdrawn, see R3
3	—	4 March 2005	
3A	2006 SL No. 136	16 June 2006	

5 List of legislation

Fisheries (Spanner Crab) Management Plan 1999 SL No. 56

made by the Queensland Fisheries Management Authority on 31 March 1999

notfd gaz 1 April 1999 pp 1534–6

pt 1, s 15(1), pt 4 divs 3–4, pt 10 div 1, sch 1–3 commenced on date of notification
(see s 2(1))

remaining provisions commenced 1 June 1999 (see s 2(2))

exp 1 September 2009 (see SIA s 54)

Note—(1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) A regulatory impact statement and explanatory note were prepared.

amending legislation—

Primary Industries and Natural Resources Legislation Consequential Amendment Management Plan (No. 1) 2000 SL No. 211 pts 1, 5

notfd gaz 11 August 2000 pp 1322–3

commenced on date of notification

Fisheries (Spanner Crab) Amendment Management Plan (No. 1) 2001 SL No. 63

notfd gaz 1 June 2001 pp 416–17

commenced on date of notification

Note—A regulatory impact statement and explanatory note were prepared

Fisheries (Spanner Crab) Amendment Management Plan (No. 1) 2002 SL No. 126

notfd gaz 31 May 2002 pp 482–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 June 2002 (see s 2)

Note—A regulatory impact statement and explanatory note were prepared

Fisheries Management Plans Amendment Management Plan (No. 1) 2002 SL No. 338**pts 1, 5**

notfd gaz 6 December 2002 pp 1162–66

commenced on date of notification

Fisheries Management Plans Amendment Management Plan (No. 2) 2002 SL No. 340**pts 1, 4**

notfd gaz 6 December 2002 pp 1162–66

commenced on date of notification

Note—A regulatory impact statement and explanatory note were prepared

Fisheries Management Plans Amendment Management Plan (No. 1) 2003 SL No. 31**pts 1, 3**

notfd gaz 28 February 2003 pp 774–5

commenced on date of notification

Fisheries Management Plans Amendment Management Plan (No. 2) 2003 SL No. 215**s 1, pt 5**

notfd gaz 12 September 2003 pp 128–31

commenced on date of notification

Note—A regulatory impact statement and explanatory note were prepared

Fisheries Management Plans Amendment Management Plan (No. 3) 2003 SL No. 261**pts 1, 5**

notfd gaz 31 October 2003 pp 691–4

commenced on date of notification

Fisheries Management Plans Amendment Management Plan (No. 5) 2003 SL No. 379**pts 1, 4**

notfd gaz 19 December 2003 pp 1307–13

commenced on date of notification

Note—A regulatory impact statement and explanatory note were prepared

Fisheries Management Plans Amendment Management Plan (No. 1) 2004 SL No. 111**pts 1, 6**

notfd gaz 25 June 2004 pp 573–81

commenced on date of notification

Note—A regulatory impact statement and explanatory note were prepared

Fisheries Management Plans Amendment Management Plan (No. 1) 2005 SL No. 27**pts 1, 5**

notfd gaz 4 March 2005 pp 758–9

commenced on date of notification

**Fisheries Management Plans Amendment Management Plan (No. 1) 2006 SL No. 25
pts 1, 6**

notfd gaz 24 February 2006 pp 798–801

ss 1–2 commenced on date of notification

remaining provisions commence 1 July 2006 (see s 2)

Note— An explanatory note was prepared

**Fisheries Management Plans Amendment Management Plan (No. 2) 2006 SL No. 136
pts 1, 6**

notfd gaz 16 June 2006 pp 787–90

ss 1–2 commenced on date of notification

s 24 commences 1 July 2006 (see s 2(2))

remaining provisions commenced 16 June 2006 (see s 2(1))

6 List of annotations

Objectives of plan and their achievement

s 4 amd 2000 SL No. 211 s 30

PART 2A—CLOSED WATERS DECLARATION

pt 2A (ss 8A–8F) ins 2003 SL No. 379 s 15

Spanner crabs regulated by number

s 12 amd 2002 SL No. 340 s 20

Restrictions on writing ‘C2’ fishery symbol on authorities

s 15 amd 2000 SL No. 211 ss 30, 31

Dillies—permitted number

s 17 amd 2003 SL No. 215 s 28

Net

s 19 sub 2003 SL No. 215 s 29

amd 2004 SL No. 111 s 68

Annual quota

s 21 amd 2001 SL No. 63 s 3

Issue of ITQ units

s 23 amd 2000 SL No. 211 s 30

No ITQ units to be issued after 1 June 1999

s 24 amd 2000 SL No. 211 s 30; 2002 SL No. 340 s 3

Minimum ITQ unit holding

s 26 om 2003 SL No. 261 s 35

When entitlement is used for a quota year

s 28 amd 2004 SL No. 111 s 69

ITQ certificates

s 30 amd 2000 SL No. 211 s 30

Purpose of sdiv 2

s 31 amd 2000 SL No. 211 s 30

Conditions for transfers before 2 June 2001

s 32 amd 2000 SL No. 211 s 30

Transferee must hold 'C2' licence or approval

s 33 amd 2000 SL No. 211 s 30

Transferor's and transferee's ITQ certificates must be amended

s 34 amd 2000 SL No. 211 s 30

No transfers of less than 5 ITQ units

s 36 om 2003 SL No. 261 s 35

Minimum number of ITQ units after transfer

s 37 om 2003 SL No. 261 s 35

Entitlement

s 39 amd 2000 SL No. 211 s 30

No more carrier boat licences

s 40 amd 2000 SL No. 211 s 30

Restriction on writing 'C3' fishery symbol on authorities

s 47 amd 2000 SL No. 211 s 30

Dillies—permitted number

s 49 amd 2003 SL No. 215 s 30; 2004 SL No. 111 s 70

Net

s 51 sub 2003 SL No. 215 s 31
amd 2004 SL No. 111 s 71

Restrictions on issuing

s 56 amd 2000 SL No. 211 s 30

Chief executive may issue

prov hdg amd 2000 SL No. 211 s 32

s 57 amd 2000 SL No. 211 s 30

Consideration of application

s 59 amd 2000 SL No. 211 s 30

Requirements for entering and leaving managed area B

s 63 amd 2000 SL No. 211 s 33

Application of pt 6

s 67 amd 2003 SL No. 379 s 16

PART 8—REVIEWS

pt hdg sub 2006 SL No. 136 s 25

Review of annual quota

s 75 amd 2000 SL No. 211 s 30
sub 2003 SL No. 31 s 6

Review rules

s 76 amd 2000 SL No. 211 s 30; 2003 SL No. 31 ss 7, 8

Notice of ‘result of review

s 77 amd 2000 SL No. 211 ss 30, 34; 2003 SL No. 31 s 8

Dilly review

s 78 amd 2000 SL No. 211 s 30

General review

s 79 amd 2000 SL No. 211 s 30

Consultation requirements for other reviews

s 80 amd 2000 SL No. 211 s 30

Division 3—Amendment or repeal of plan

div hdg om 2006 SL No. 136 s 26

How plan may be amended

s 81 amd 2000 SL No. 211 ss 30, 34; 2003 SL No. 31 s 9
om 2006 SL No. 136 s 26

Buyer licences—conditions

s 83 amd 2000 SL No. 211 s 35

Serious fisheries offences

s 84 amd 2000 SL No. 211 s 30

Criteria for suspending certain authorities—convictions

s 85 amd 2002 SL No. 338 s 10; 2004 SL No. 111 s 72

Definitions for div 1

s 87 def “eligible licence” amd 2000 SL No. 211 s 30

Chief executive must issue ITQ units

prov hdg amd 2000 SL No. 211 s 36(1)

s 88 amd 2000 SL No. 211 ss 30, 36(2)–(4)

Formula for amount

s 91 amd 2000 SL No. 211 s 30

Logbook returns that must be used

s 93 amd 2000 SL No. 211 ss 30, 37

Adjustment for transfers from 1990 to 21 January 1994

s 94 amd 2000 SL No. 211 s 30

No adjustment for area or seasonal abundance

s 95 amd 2000 SL No. 211 s 30

Approvals for fishery symbol (other than for a ‘C3’ fishery symbol)

s 97 amd 2000 SL No. 211 s 38

Approval for ‘C3’ fishery symbol

s 99 amd 2000 SL No. 211 s 38

SCHEDULE 1—THE FISHERY**Fishing apparatus**

s 16 amd 2003 SL No. 215 s 32

Aborigines' and Torres Strait Islanders' fishery

s 20 amd 2000 SL No. 211 s 39(1)

Logbook program

s 22 amd 2000 SL No. 211 s 39(2)

Aborigines' and Torres Strait Islanders' fishery

s 26 amd 2000 SL No. 211 s 39(1)

SCHEDULE 2—HOW OBJECTIVES ARE TO BE ACHIEVED**Review event**

s 4 amd 2000 SL No. 211 s 40(1)

How achievement is to be measured

s 7 amd 2000 SL No. 211 s 40(1)

Review event

s 8 amd 2000 SL No. 211 s 40(1)–(2)

How achievement is to be measured

s 11 amd 2000 SL No. 211 s 40(1)

Review event

s 12 amd 2000 SL No. 211 s 40(1)

How achievement is to be measured

s 15 amd 2000 SL No. 211 s 40(1)

Review event

s 16 amd 2000 SL No. 211 s 40(1)

How objective is to be achieved

s 18 amd 2000 SL No. 211 s 40(1), (3)

How achievement is to be measured

s 19 amd 2000 SL No. 211 s 40(1)

Review event

s 20 amd 2000 SL No. 211 s 40(1)

SCHEDULE 2A—WATER CLOSURES

ins 2003 SL No. 379 s 17

SCHEDULE 3—AIDS TO INTERPRETATION AND DEFINITIONS**PART 1—PROVISIONS AIDING INTERPRETATION****Measuring carapace or sternite length**

s 1 amd 2002 SL No. 338 s 11

References to latitudes and longitudes—sch 2A

s 4A ins 2004 SL No. 379 s 18

PART 3—DICTIONARYdef “**annual review**” om 2003 SL No. 31 s 10(1)def “**biennial review**” ins 2003 SL No. 31 s 10(2)

def **“boat mark”** amd 2000 SL No. 211 s 41(1)
def **“buyer licence”** amd 2000 SL No. 211 s 41(2)
def **“carrier boat licence”** amd 2005 SL No. 27 s 12
def **“commercial fisher licence”** amd 2000 SL No. 211 s 41(2)
def **“commercial fishing boat licence”** amd 2000 SL No. 211 s 41(2)
def **“territorial sea baseline”** sub 2004 SL No. 111 s 73(1)
def **“the 25 n mile line”** amd 2004 SL No. 111 s 73(2)