



Small Pelagic Fishery Management Plan 2009¹

The AUSTRALIAN FISHERIES MANAGEMENT AUTHORITY determines this plan of management under section 17 of the *Fisheries Management Act 1991*.

Dated 2 November 2009

Common seal of the
Australian Fisheries
Management Authority

Accepted on 30 December 2009

TONY BURKE

Minister for Agriculture, Fisheries and Forestry

Contents

Part 1	Preliminary	
	1 Name of Management Plan	5
	2 Commencement	5
	3 Definitions	5
	4 Origin of geographical coordinates	11
	5 Meaning of <i>holds</i> a sequence of permits or licences	11
	6 Meaning of <i>sequence</i> of Zone A purse seine permits	11
	7 Meaning of <i>sequence</i> of Zone D permits	12
	8 Meaning of <i>sequence</i> of Mackerel B licences.	12
	9 Meaning of <i>uncaught quota</i>	13
	10 Periods of fishing	13
	11 Objectives of Management Plan	13
	12 Measures by which objectives attained	13
	13 Performance criteria for assessing measures to achieve objectives	14
Part 2	Specific ecosystem requirements	
	14 By-catch action plans	16
	15 Harvest Strategy	16
Part 3	Total allowable catch	
Division 3.1	Total allowable catch — quota species	
	16 Purpose of Division 3.1	18
	17 Determination of TAC — quota species	18
	18 Consultation and matters that must be taken into account	18
	19 Notice of TAC — quota species allocation	19
Division 3.2	Total allowable catch — non-quota species	
	20 Purpose of Division 3.2	19
	21 Determination of TAC — non-quota species	19
	22 Consultation and matters that must be taken into account	20
	23 Notice of TAC — non-quota species	20
	24 Notice that TAC taken — non-quota species	20
Part 4	Right to fish in the fishery	
Division 4.1	General	
	25 Fishing in the fishery — quota species	22
	26 Fishing in the fishery — non-quota species	22
	27 AFMA may determine fishing method	23
	28 Carrying, transshipping or processing fish	23

	Page
Division 4.2	Overcatch and undercatch
29	Obligation relating to overcatch 23
30	Obligation relating to undercatch 25
Part 5	Availability of SFRs
31	Conditions for registration as an eligible person 27
32	Availability of SFRs to holders of fishing permits for purse seine only — Zone A permit or Mackerel B licence 28
33	Availability of SFRs to holders of Mackerel A licences — Zone A 29
34	Availability of SFRs to mid-water trawl permit holders — Zone A 29
35	Availability of SFRs to permit holders — Zone B 30
36	Availability of SFRs to permit holders — Zone C 31
37	Availability of SFRs to permit holders — Zone D 32
38	Availability of SFRs to sequence permit holders — Zone D 33
39	Availability of eastern sub-area blue mackerel SFRs to holders of Informally Managed Fishery permit — Australian sardine and blue mackerel 33
40	Availability of Australian Sardine SFRs 34
41	Request for grant 34
42	Certificate showing grant 34
43	Nomination of boat 35
44	Removal of boat from Register 35
45	Request to cancel boat nomination 36
Part 6	Transfer and lease of SFRs
46	Transfer of SFR 37
47	Issue of certificates for transferred SFRs 37
48	Leases of SFRs 38
Part 7	Obligations applying to holders of SFRs
49	Purpose of Part 7 39
50	General obligations 39
51	Obligations relating to fishing in more than 1 area 40
52	Obligations relating to interactions with certain species and communities 40
Part 8	Directions not to engage in fishing
53	Directions not to engage in fishing 42
Part 9	Miscellaneous
54	Delegation 43
55	Approved form 43
56	Agents 43
57	Notices 43

		Page
Part 10	Transitional	
	58 Transitional	45
Schedule 1	Sub-areas of the fishery	46
Schedule 2	Zones A, B, C and D	48
Schedule 3	IMF 1 and IMF 2 sub-areas	50
Schedule 4	Quota species	51

Part 1 Preliminary

1 Name of Management Plan

This Management Plan is the *Small Pelagic Fishery Management Plan 2009*.

2 Commencement

This Management Plan commences on the day after it is registered.

3 Definitions

In this Plan:

Act means the *Fisheries Management Act 1991*.

address means:

- (a) for the holder of an SFR — the holder's address stated in the Register; and
- (b) for the holder of a fishing permit — the last address recorded by AFMA for the holder of the permit.

advisory committee means a committee of a kind mentioned in section 56 of the *Fisheries Administration Act 1991* that is established by AFMA under section 54 of that Act to advise AFMA about the fishery.

approved form means the form approved by AFMA under section 55.

area of the fishery means the total of the sub-areas described in clauses 1, 2 and 3 of Schedule 1.

Australian sardine means the fish for which the scientific name is *Sardinops sagax*.

Australian sardine SFR means an SFR that is a right to take a particular quantity of Australian sardine in the Australian sardine sub-area.

Australian sardine sub-area means the part of the area of the fishery described in clause 3 of Schedule 1.

blue mackerel means the fish for which the scientific name is *Scomber australasicus*.

by-catch means marine life that is:

- (a) taken in the fishery and returned to the sea for any reason; or
- (b) affected by interacting with fishing equipment in the fishery, but not taken.

by-catch action plan means a plan mentioned in section 14.

certificate, for an SFR, means a certificate given under subsection 22 (2) of the Act as evidence of the grant of the SFR.

commencement day means the day on which this Management Plan commences.

Section 3

eastern sub-area means the part of the area of the fishery described in clause 1 of Schedule 1.

eastern sub-area blue mackerel SFR means an SFR that is the right to take a particular quantity of blue mackerel in the eastern sub-area.

eastern sub-area jack mackerel SFR means an SFR that is the right to take a particular quantity of jack mackerel in the eastern sub-area.

eastern sub-area redbait SFR means an SFR that is the right to take a particular quantity of redbait in the eastern sub-area.

eligible person means a person who:

- (a) is registered as an eligible person for a grant of an SFR under section 26 of the Act; and
- (b) satisfies the conditions for registration mentioned in subsection 31 (2).

e-mail address, of a person, means the e-mail address (if any) given to AFMA by the person.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999*.

fax number means:

- (a) for the holder of an SFR — the holder's fax number stated in the Register; and
- (b) for the holder of a fishing permit — the last fax number recorded by AFMA for the holder.

fishery means the Small Pelagic Fishery.

Harvest Strategy means the strategy for the fishery determined under section 15.

holder, at a particular time, means:

- (a) for an SFR — the person who holds the right at that time because:
 - (i) the person is the owner of the right and has not leased the right to another person under section 48; or
 - (ii) the person has, under section 48, leased the right from another person; and
- (b) for a fishing permit — the person who holds the right at that time because:
 - (i) the person was granted the permit under section 32 of the Act; or
 - (ii) if the permit has been transferred under subsection 32 (10) of the Act, the person is the transferee of the permit; and
- (c) for a fishing licence — the person who holds the right at that time because:
 - (i) the person was issued the licence under the *Fisheries Act 1995* (Tas); and
 - (ii) the licence continues to be in force in relation to the person under section 10 of the *Marine Resources (Savings and Transitional) Act 1995* (Tas).

Section 3

holds, for a sequence of permits or licences, has the meaning given by section 5.

IMF 1 sub-area means the part of the area of the fishery described in clause 1 of Schedule 3.

IMF 2 sub-area means the part of the area of the fishery described in clause 2 of Schedule 3.

Informally Managed Fishery permit — Australian sardine means a fishing permit that authorises a person to use an Australian boat to fish for Australian sardines and Sandy Sprat in the IMF 2 sub-area using the purse seine fishing method, whether or not it also authorises fishing for another species.

Informally Managed Fishery permit — Australian sardine and blue mackerel means a fishing permit that authorises a person to use an Australian boat and the purse seine fishing method:

- (a) to fish for Australian sardines in the Australian sardine sub-area; and
 - (b) to fish for blue mackerel in the IMF 1 sub-area;
- whether or not it also authorises fishing for another species.

jack mackerel means a species of fish for which the scientific name is *Trachurus declivis* or *Trachurus murphyi*.

lease, of an SFR, means a lease of a kind mentioned in section 48.

listed marine species has the meaning given by the EPBC Act.

listed migratory species has the meaning given by the EPBC Act.

listed threatened ecological communities has the meaning given by the EPBC Act.

listed threatened species has the meaning given by the EPBC Act.

Mackerel A licence means a licence called ‘Fishing Licence (Mackerel A)’, issued under the *Living Marine Resources Management Act 1995* (Tas) that authorises the holder to fish using the purse seine method.

Mackerel B licence means a licence:

- (a) called ‘Fishing Licence (Mackerel B)’ issued under the *Fisheries Act 1995* (Tas) and continued in force under section 10 of the *Marine Resources (Savings and Transitional) Act 1995* (Tas); and
- (b) authorising the holder to fish using the purse seine fishing method.

nominated boat, means:

- (a) for an SFR, a boat the details of which are entered in the Register, under section 45 of the Act, as the nominated boat for the SFR; and
- (b) for a fishing permit, a boat the details of which are entered in the Fishing Permits Register, under section 57H of the Act, as the nominated boat for the permit.

non-quota species means a species of fish other than a quota species.

notice means:

- (a) for the Act, a notice that AFMA is required or allowed to give, in writing, under the Act; or

Section 3

- (b) for this Management Plan, a written notice that AFMA is required or allowed to give under this Plan.

notice period means the period specified in a notice that:

- (a) is published by AFMA under section 24 of the Act; and
(b) invites interested persons to apply to AFMA to be registered as an eligible person for the grant of a fishing right for the fishery in accordance with paragraph 25 (f) of the Act.

observer means a person who is nominated by AFMA to carry out the functions of an observer under this Management Plan.

owner, for an SFR, means:

- (a) the person who is granted the SFR under section 31 of the Act; or
(b) if the SFR has been transferred under section 46 — the most recent transferee of the SFR under that section.

protected species means:

- (a) listed threatened species; and
(b) listed migratory species; and
(c) listed marine species.

quota, for a statutory fishing right, means the amount (by weight) of fish of a particular quota species that may be taken in a season under the statutory fishing right.

quota species means a species of fish mentioned in Schedule 4.

redbait means a fish for which the scientific name is *Emmilichthys nitidus*.

Regulations means the *Fisheries Management Regulations 1992*.

relevant period means the period from 1 July 1989 to 30 June 1996 (inclusive).

resource assessment group means a group established by AFMA to give advice in relation to the stock status, research needs, environment and economics of the fishery and any other matters related to the fishery.

Sandy Sprat means a fish for which the scientific name is *Hyperlophus vittatus*.

season has the meaning given by subsection 10 (2).

sequence, for a permit or licence, has the meaning given by section 6.

Small Pelagic Fishery means fishing for a fish of a quota or non-quota species in the area of the fishery.

SPF Regulations means the *Fisheries Management (Small Pelagic Fishery) Regulations 2009*.

statutory fishing right or **SFR** means a statutory fishing right granted under this Management Plan.

sub-area, for the fishery, means a part of the area of the fishery described in clauses 1, 2 or 3 of Schedule 1.

Section 3

total allowable catch or ***TAC***, means:

- (a) for a quota species and season — the total amount (by weight) of fish of that species that may be taken in that year, under the statutory fishing rights for that species and season, in accordance with a determination made under section 17; and
- (b) for a non-quota species and season — the total amount (by weight) of fish of that species that may be taken in that period, under all fishing concessions to which the TAC applies, in accordance with a determination made under section 21.

transfer does not include lease.

uncaught quota has the meaning given by section 9.

western sub-area means the part of the area of the fishery described in clause 2 of Schedule 1.

western sub-area blue mackerel SFR means an SFR that is the right to take a particular quantity of blue mackerel in the western sub-area.

western sub-area jack mackerel SFR means an SFR that is the right to take a particular quantity of jack mackerel in the western sub-area.

western sub-area redbait SFR means an SFR that is the right to take a particular quantity of redbait in the western sub-area.

working day, in a place, means a day that is not, in the place:

- (a) a Saturday or Sunday; or
- (b) a public holiday.

zone, for the fishery, means a part of the area of the fishery described in clause 1, 2, 3, or 4 of Schedule 2.

Zone A means the part of the area of the fishery described in clause 1 of Schedule 2.

Zone A mid-water trawl permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone A using the mid-water trawl fishing method.

Zone A purse seine permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone A using the purse seine fishing method.

Zone B means the part of the area of the fishery described in clause 2 of Schedule 2.

Zone B dual gear permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone B using both the purse seine and mid-water trawl fishing methods.

Zone B factor has the meaning given by subsection 35 (1).

Zone B mid-water trawl permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone B using the mid-water trawl fishing method.

Section 3

Zone B purse seine permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone B using the purse seine fishing method.

Zone C means the part of the area of the fishery described in clause 3 of Schedule 2.

Zone C dual gear permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone C using both the purse seine and mid-water trawl fishing methods.

Zone C mid-water trawl permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone C using the mid-water trawl fishing method.

Zone C purse seine permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone C using the purse seine fishing method.

Zone D means the part of the area of the fishery described in clause 4 of Schedule 2.

Zone D dual gear permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone D using both the purse seine fishing and mid-water trawling methods.

Zone D factor means the sum of the following:

- (a) the total number of Zone D purse seine permits held by eligible persons;
- (b) the total number of Zone D mid-water trawl permits held by eligible persons;
- (c) 1.5 times the total number of Zone D dual gear permits held by eligible persons.

Zone D mid-water trawl permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone D using the mid-water trawl method.

Zone D permit means any of the following:

- (a) a Zone D dual gear permit;
- (b) a Zone D mid-water trawl permit;
- (c) a Zone D purse seine permit.

Section 6

Zone D purse seine permit means a fishing permit that authorises a person to use an Australian boat to fish for blue mackerel, jack mackerel and redbait in Zone D using the purse seine method.

Note Unless otherwise stated, a term used in this Management Plan and in the Act has the same meaning in this Plan as it has in the Act. The following terms are defined in the Act:

- AFMA
- AFZ
- Australian boat
- fish
- fish receiver permit
- fishing
- fishing permit
- Fish Stocks Agreement
- precautionary principle
- principles of ecologically sustainable development
- Register
- scientific permit
- take.

4 Origin of geographical coordinates

If, for the purposes of this Management Plan, it is necessary to determine the position on the surface of the earth of a point, line or area, that position must be determined by reference to the Geocentric Datum of Australia (GDA94) as defined in the *Gazette* No. GN35, 6 September 1995.

5 Meaning of *holds* a sequence of permits or licences

A person *holds* a sequence of permits or licences if the person holds a permit or licence that forms part of the sequence at the end of the notice period.

6 Meaning of *sequence* of Zone A purse seine permits

- (1) A *sequence* of Zone A purse seine permits means a number of those permits:
 - (a) each of which is connected to another of them; and
 - (b) the earliest of which was in force during the relevant period and the latest of which was held by an eligible person.
- (2) A permit to which subsection (1) applies includes:
 - (a) a permit which was first issued for another fishery, but subsequently became a Zone A purse seine permit; and
 - (b) a Commonwealth Boat Fishing License (or CBFL) that subsequently became a Zone A purse seine permit.
- (3) For paragraph (1) (a), 2 Zone A purse seine permits are *connected* if:
 - (a) one commenced after the other ceased to have effect; and

Section 7

- (b) the later permit was granted to the person that:
 - (i) was the holder of the earlier permit when it ceased to have effect; and
 - (ii) applied to AFMA for the grant; and
 - (c) the later permit was granted because the person held the earlier permit.
- (4) As part of working out if 2 Zone A purse seine permits are connected, a sequence of the permits may exist during a period of more than 1 year even if:
- (a) no Zone A purse seine permit was issued in a particular year; or
 - (b) no permit became a Zone A purse seine permit in a particular year.

7 Meaning of sequence of Zone D permits

- (1) A *sequence* of Zone D permits means a number of those permits:
- (a) each of which is connected to another of them; and
 - (b) the earliest of which was in force on or before 6 July 2004 and the latest of which was held by an eligible person.
- (2) For subsection (1), two Zone D permits are *connected* if:
- (a) each permit entitled the holder to fish in the same area of the fishery using the same fishing method; and
 - (b) one commenced after the other ceased to have effect; and
 - (c) the later permit was granted to the person that:
 - (i) was the holder of the earlier permit when it ceased to have effect; and
 - (ii) applied to AFMA for the grant; and
 - (d) the later permit was granted because the person held the earlier permit.

8 Meaning of sequence of Mackerel B licences.

- (1) A *sequence* of Mackerel B licences means a number of those licences:
- (a) each of which is connected to another of them; and
 - (b) the earliest of which was in force during the relevant period and the latest of which was held by an eligible person.
- (2) For subsection (1), two licences are *connected* if:
- (a) one commenced after the other ceased to have effect; and
 - (b) each was granted to the same person; and
 - (c) the later licence was granted because the person held the earlier licence.

Note There is no sequence of permits or licences if a person held a permit or licence but surrendered it or was not granted a new permit or licence for the fishery each consecutive year, even if the person was later granted a permit or licence to fish in the same area of the fishery using the same fishing method.

9 Meaning of *uncaught quota*

An SFR holder has *uncaught quota* during a season, for a species of fish and a sub-area, if the total amount of fish of the species taken in the sub-area by the holder during the season is less than the total of the quota for the species, sub-area and season allocated to SFRs held by the holder.

10 Periods of fishing

- (1) AFMA may determine 1 or more periods during which fishing is permitted in the fishery.
- (2) Each period is a *season* for the fishery.
- (3) AFMA must publish a determination in the *Gazette* as soon as practicable after making the determination.

11 Objectives of Management Plan

For paragraph 17 (5) (a) of the Act, the objectives of this Management Plan, and the objectives for AFMA to pursue when administering the Plan, are the same as the objectives set out in section 3 of the Act.

12 Measures by which objectives attained

For paragraph 17 (5) (b) of the Act, the measures by which the objectives of this Management Plan are to be attained include the following:

- (a) providing the services needed to manage the fishery, including:
 - (i) data collection, research and consultation; and
 - (ii) services to ensure compliance with the Plan;
- (b) annually evaluating and, if necessary, revising the range, extent and cost of the services mentioned in paragraph (a);
- (c) reviewing ecological risk assessments of marine communities, quota and non-quota species, and protected species to determine the risk to the maintenance of an ecologically sustainable fishery;
- (d) developing, in cooperation with stakeholders, a plan to strategically address any high risks identified during an ecological risk assessment;
- (e) setting catch limits, or designing other measures, for non-quota species to ensure the ecological sustainability of these species;
- (f) setting catch limits and managing quota species in accordance with the Harvest Strategy;
- (g) issuing directions prohibiting fishing in the fishery, or part of the fishery, during specified periods, informing the holders of fishing concessions about those directions, and requiring the holders to comply with the directions;
- (h) granting SFRs to eligible persons;
- (i) consulting with the advisory committee about the management of the fishery;

Section 13

- (j) in accordance with the government's cost recovery policy, preparing annual budgets and recommending levies to recover the costs of management that are attributable to the fishing industry;
- (k) identifying impediments to maximising the net economic returns to the Australian community in managing the resources of the fishery and developing strategies to minimise the effect of, or eliminate, the impediments;
- (l) reviewing and, if necessary, amending the Management Plan to improve the management of the fishery at least once during:
 - (i) the period of 5 years period commencing on the commencement day; and
 - (ii) each subsequent period of 5 years;

13 Performance criteria for assessing measures to achieve objectives

- (1) For paragraph 17 (5) (c) of the Act, the performance criteria for assessing the measures taken to achieve the objectives of this Management Plan are the following:
 - (a) that the range and cost of AFMA's services in the fishery are reviewed annually and:
 - (i) the review is published; and
 - (ii) the management of the fishery has been carried out cost-effectively;
 - (b) that the necessary risk assessments are carried out for quota species, non-quota species and protected species;
 - (c) that, in cooperation with stakeholders, a plan is developed to address any high risks identified during an ecological risk assessment;
 - (d) that catch limits, or other appropriate measures, are set for non-quota species if there is a risk to the viability of the species;
 - (e) that the management of quota species, including the use of catch limits, is done in accordance with the Harvest Strategy, and that actions taken in accordance with the Harvest Strategy are monitored, reviewed and, if appropriate, improved;
 - (f) that SFRs for each quota species are granted to eligible persons;
 - (g) that, subject to the provisions relating to overcatch, the TACs for a species are not exceeded;
 - (h) that the advisory committee was consulted on the management of the fishery;
 - (i) that the costs of the management of the fishery that are attributable to the fishing industry have been recovered;
 - (j) that impediments to maximising the net economic returns to the Australian community in managing the resources of the fishery have been identified and strategies to minimise and eliminate those impediments have been developed;

Section 13

- (k) that any changes to the management of the fishery are assessed for their likely effect on maximising the net economic returns to the Australian community in managing the resources of the fishery.
- (2) AFMA must assess the effectiveness of this Management Plan, including the measures taken to achieve the objectives of the Plan, at least once during:
 - (a) the period of 5 years period commencing on the commencement day; and
 - (b) each subsequent period of 5 years;by reference to the performance criteria mentioned in subsection (1) and by taking into account the advice of the advisory committee.

Section 14

Part 2 Specific ecosystem requirements**14 By-catch action plans**

- (1) For subsection 17 (6D) of the Act, AFMA must develop and implement a by-catch action plan for the fishery.
- (2) A by-catch action plan is in force for the period:
 - (a) beginning on the date that AFMA implements the plan; and
 - (b) ending on the date that a subsequent by-catch plan is implemented for the fishery.
- (3) If a by-catch action plan is in force, AFMA must review the plan at least once in each 2 year period that the plan is in force, commencing on the date that it came into force.
- (4) A by-catch action plan must require AFMA to ensure that:
 - (a) information is gathered about the impact of the fishery on by-catch species; and
 - (b) all reasonable steps are taken to minimise incidental interactions with seabirds, marine reptiles, marine mammals and fish of a kind mentioned in sections 15 and 15A of the Act; and
 - (c) the ecological impacts of fishing operations on habitats in the area of the fishery are minimised and kept at an acceptable level; and
 - (d) by-catch is reduced to, or kept at, a minimum, and below a level that might threaten by-catch species.
- (5) In developing a by-catch action plan, AFMA must take into account:
 - (a) the protection given to whales and other cetaceans under Division 3 of Part 13 of the EPBC Act; and
 - (b) the requirements under the EPBC Act for the protection of:
 - (i) protected species; and
 - (ii) listed threatened ecological communities.
- (6) If information gathered under a by-catch action plan shows that it may be appropriate to amend this Management Plan or change the conditions imposed on the holders of SFRs, AFMA must consider making such amendments or changes.

Note Obligations are placed on the holders of SFRs under section 50 (General obligations) to ensure that by-catch is kept to a minimum.

15 Harvest Strategy

- (1) As soon as practicable after the commencement day, AFMA must establish, for each quota species, a Harvest Strategy.

Section 15

- (2) AFMA may review the Harvest Strategy to ensure that it remains appropriate for maintaining ecologically viable stocks of the quota species and an ecologically sustainable fishery.
- (3) AFMA may establish, for a non-quota species, a Harvest Strategy that is appropriate for maintaining ecologically viable stocks of those species and an ecologically sustainable fishery.

Note Further ecosystem safeguards are contained in requirements under Part 3 (Total allowable catch), section 53 (Directions not to engage in fishing) and section 52 (Obligations relating to interactions with certain species and communities).

Part 3 Total allowable catch

Division 3.1 Total allowable catch — quota species

16 Purpose of Division 3.1

This Division sets out the requirements for the determination of total allowable catch for a quota species.

17 Determination of TAC — quota species

- (1) AFMA must determine a TAC for each quota species for a sub-area of the fishery and for a season before the start of the season.
- (2) AFMA may determine a TAC for each quota species for a part of the sub-area and for a season.
- (3) AFMA must calculate the quota of a quota species that is to be allocated to an SFR holder for a sub-area or part of a sub-area of the fishery, by dividing the TAC for the quota species by the total number of SFRs in force for the species in the sub-area, or part of the sub-area, on the day on which the TAC was determined.
- (4) AFMA must specify in the determination:
 - (a) the amount of the species that may be taken, expressed in:
 - (i) whole weight; or
 - (ii) other weight, as specified in the determination; and
 - (b) the sub-area to which the determination applies; and
 - (c) if the determination specifies TAC for a part of a sub-area — that part of the sub-area.

Note A determination under this section is a disallowable instrument: see subsection 17 (6B) of the Act.

18 Consultation and matters that must be taken into account

In determining a TAC for a quota species for a sub-area or part of a sub-area of the fishery for a season, AFMA:

- (a) must consult with the advisory committee and have regard to any view expressed in that consultation; and
- (b) must take into account:
 - (i) advice from the relevant resource assessment group about the stock status of the quota species; and
 - (ii) the Harvest Strategy for the species established under section 15; and

- (iii) all fishing mortality of the quota species for which the determination is made from all sub-areas within the fishery and overlapping or adjacent fisheries for the species; and
 - (iv) the ecological implications of taking the amount of the species; and
 - (v) the distribution, population and structure of the species; and
 - (vi) the precautionary principle;
- (c) may consider the views (if any) of any other interested person.

19 Notice of TAC — quota species allocation

- (1) This section applies if AFMA determines a TAC for a quota species for:
- (a) a sub-area of the fishery for a season; or
 - (b) a part of a sub-area of the fishery for a season.
- (2) As soon as practicable after determining the TAC, AFMA must give written notice to the SFR holder stating:
- (a) if the TAC is for a sub-area of the fishery for a season:
 - (i) the TAC for the species for the sub-area of the fishery for the season; and
 - (ii) the quota allocated to the SFR holder for the species for the sub-area of the fishery for the season; and
 - (b) if the TAC is for a part of a sub-area of the fishery for a season:
 - (i) the TAC for the species for the part of the sub-area of the fishery for the season; and
 - (ii) the quota allocated the SFR holder for the season for each of the parts of a sub-area.

Division 3.2 Total allowable catch — non-quota species

20 Purpose of Division 3.2

This Division sets out the requirements for the determination of total allowable catch for a non-quota species.

21 Determination of TAC — non-quota species

- (1) AFMA may determine a TAC for a non-quota species for a period specified in the determination.
- (2) The determination must specify:
- (a) the amount of the species that may be taken, expressed in:
 - (i) whole weight; or
 - (ii) other weight, as specified in the determination; and
 - (b) the period for which the determination applies; and

Section 22

- (c) a sub-area or a part of a sub-area to which the determination applies; and
- (d) the SFRs to which the determination applies.

Note A determination under this section is a disallowable instrument: see subsection 17 (6B) of the Act.

22 Consultation and matters that must be taken into account

In determining a TAC for a non-quota species for a sub-area or part of a sub-area of the fishery for a season, AFMA:

- (a) must consult with the advisory committee and have regard to any view expressed in that consultation; and
- (b) must take into account:
 - (i) advice from the relevant resource assessment group about the stock status of the species; and
 - (ii) the Harvest Strategy for the species established under section 15; and
 - (iii) all fishing mortality of the species for which the determination is being made from all sub-areas within the fishery and overlapping or adjacent fisheries for the species; and
 - (iv) the ecological implications of taking the amount of the species; and
 - (v) the distribution, population and structure of the species; and
 - (vi) the precautionary principle; and
- (c) may consider the views (if any) of any other interested person.

23 Notice of TAC — non-quota species

As soon as practicable after AFMA determines a TAC for a non-quota species and sub-area or part of a sub-area for a period, AFMA must give to each SFR holder for the sub-area or part of a sub-area a written notice stating:

- (a) the species; and
- (b) the amount of the species that may be taken under the TAC; and
- (c) the period for which the TAC applies; and
- (d) the sub-area or a part of a sub-area to which the TAC applies.

24 Notice that TAC taken — non-quota species

- (1) This section applies if:
 - (a) AFMA has determined a TAC for a non-quota species or a sub-area or part of a sub-area of the fishery for a period; and
 - (b) the amounts of a species that may be taken under the TAC has been taken.

- (2) As soon as practicable, AFMA must give each SFR holder for the TAC written notice stating that the species must no longer be taken from the sub-area or part of the sub-area during the period that the TAC is in force.

Part 4 Right to fish in the fishery

Division 4.1 General

25 Fishing in the fishery — quota species

A person must not fish for a quota species in the fishery unless:

- (a) the person is, or is acting for, the holder of an SFR that authorises fishing for the quota species in a sub-area or part of a sub-area of the fishery; and
- (b) the person uses a boat nominated for the purpose of the SFR; and
- (c) the person uses:
 - (i) the purse seine fishing method; or
 - (ii) the mid-water trawl fishing method; or
 - (iii) another fishing method determined by AFMA under section 27.
- (d) the SFR holder has uncaught quota for the species in the sub-area or part of a sub-area.

26 Fishing in the fishery — non-quota species

- (1) This section applies if:
 - (a) a person is, or is acting for, the holder of an SFR for the fishery; and
 - (b) the person is permitted to fish in the fishery using:
 - (i) the purse seine fishing method; or
 - (ii) the mid-water trawl fishing method; or
 - (iii) another fishing method determined by AFMA under section 27; and
 - (c) the person fishes for a quota species in the fishery using 1 of those methods; and
 - (d) the person uses a boat nominated for the purpose of the SFR; and
 - (e) if a TAC has been determined for the species under section 21 — AFMA has not issued a notice under section 24 for the species; and
 - (f) the person incidentally catches an amount of non-quota species.
- (2) The person is permitted to take and keep the catch if:
 - (a) the non-quota species is a species for which quota has been granted under another plan of management made under the Act; and
 - (b) the SFR holder:
 - (i) has quota to take that amount of the species under that plan; or
 - (ii) obtains quota to take that amount of the species under that plan.

- (3) The person is permitted to take and keep the catch if the taking of the non-quota species is not prohibited or limited by a determination made under section 21 or a direction made under section 53.

27 AFMA may determine fishing method

- (1) AFMA may determine a fishing method other than the purse seine or mid-water trawl fishing methods for use by persons fishing in the fishery.
- (2) The determination must specify:
- (a) the fishing method, other than the purse seine or mid-water trawl method, that may be used by persons fishing in the fishery; and
 - (b) the period for which the determination applies; and
 - (c) if the determination applies to a sub-area or a part of a sub-area of the fishery — the sub-area or part of a sub-area.
 - (d) the SFRs to which the determination applies.

28 Carrying, transhipping or processing fish

A person must not use a boat to carry, tranship or process fish in accordance with this Management Plan unless:

- (a) the boat is:
- (i) specified in a fishing permit held by the person and granted under subsection 32 (1) of the Act; or
 - (ii) nominated for a fishing permit held by the person under subsection 32 (1A) or (1B) of the Act; or
- (b) the person is:
- (i) the holder of a fishing permit for the fishery that authorises the use of the boat to carry, tranship or process fish in the fishery; or
 - (ii) the holder of an SFR for which AFMA has authorised the person to use the boat to carry, tranship or process fish in the fishery.

Division 4.2 Overcatch and undercatch

29 Obligation relating to overcatch

- (1) Subsection (2) applies to the holder of a quota SFR for a quota species if:
- (a) in a season (the *first season*), the holder takes (or is taken, by a previous application of this section, to have taken) a weight of fish of the quota species that exceeds, by a percentage less than the determined percentage, the holder's quota for that species for the season; and
 - (b) at the end of the last day of the second month of the following season (the *second season*), the holder holds statutory fishing rights that would, in the absence of this section, entitle the holder to take a weight of fish of that species at least equal to the weight by which the holder exceeded the quota mentioned in paragraph (a).

Section 29

- (2) The holder is taken to have taken:
- (a) during the first season, a weight of fish of the quota species mentioned in paragraph (1) (a) that is equal to the quota allocated to the SFR held by the holder in the first season; and
 - (b) during the second season, a weight of fish of that species equal to the weight by which the holder exceeded the quota of that species allocated to the holder in the first season, in addition to the weight actually taken by the holder in the second season.
- (3) Subsection (4) applies to the holder of a statutory fishing right for a quota species if:
- (a) in a season (the *first season*), the holder takes (or is taken, by a previous application of this section, to have taken) a weight of fish of the quota species that exceeds the holder's quota for that species in the season by:
 - (i) at least the determined percentage; and
 - (ii) an amount equal to or less than the sum of:
 - (A) the result of multiplying the holder's quota in the first season by the determined percentage; and
 - (B) the determined weight; and
 - (b) at the end of the last day of the second month of the following season (the *second season*), the holder holds statutory fishing rights that would, in the absence of this section, entitle the holder to take a weight of fish of that species at least equal to the sum of:
 - (i) the result of multiplying the holder's quota in the first season by the determined percentage; and
 - (ii) twice the amount by which the holder's overcatch in the first season exceeded the determined percentage.
- (4) The holder is taken to have taken:
- (a) during the first season, a weight of fish of the quota species mentioned in paragraph (3) (a) that is equal to the quota allocated to the statutory fishing rights held by the holder in the first season; and
 - (b) during the second season, a weight of fish of that species equal to the sum of:
 - (i) the result of multiplying the holder's quota in the first season by the determined percentage; and
 - (ii) twice the amount by which the holder's overcatch in the first season exceeded the determined percentage;in addition to the weight actually taken by the holder in the second season.

(5) In this section:

determined percentage, for a quota species, sub-area and a fishing season, means the percentage for that species, sub-area and season specified in a determination made by AFMA for this section.

Note The percentage is intended to be a percentage of the quota allocated to the SFR for that species, sub-area and season held by a person for that season.

determined weight, for a quota species, sub-area and a fishing season, means the weight specified in a determination made by AFMA for this section.

Note The weight is intended to be the weight of that species that may be taken in the sub-area and season.

(6) If AFMA determines a percentage for quota species for a fishing season under subsection (5), that percentage must not be greater than 10%.

(7) For this section, a statutory fishing right holder's ***overcatch*** of a quota species in a fishing season is the weight of fish of that species taken by the holder in the season that exceeds the holder's quota for that species for the season.

Note A determination under this section is a disallowable instrument: see subsection 17 (6B) of the Act.

30 Obligation relating to undercatch

(1) This section applies to the holder of a statutory fishing right if:

- (a) in a fishing season (the ***first season***), the holder takes:
 - (i) an amount of a quota species that is less than the quota for that species allocated to the SFRs held by the holder in that season; or
 - (ii) no fish of a quota species; and
- (b) in the following fishing season (the ***second season***), the holder holds 1 or more statutory fishing rights for that species.

(2) The holder may, during the second season, take a weight of fish of the quota species mentioned in paragraph (1) (a) that is the sum of:

- (a) the quota allocated to SFRs held by the holder in the second season; and
- (b) an amount equal to the lesser of:
 - (i) the difference between the weight of fish of that species taken by the holder in the first season and the quota allocated to the holder's SFRs in that season; and
 - (ii) the result of multiplying the holder's quota for that species in the first year by the determined percentage for that species and year.

(3) In this section:

determined percentage, for a quota species and a fishing season, means the percentage for that species and season specified in a determination made by AFMA for this section.

Section 30

- (4) If AFMA determines a percentage for quota species for a fishing season under subsection (3), that percentage must not be greater than 10%.

Note 1 The percentage is intended to be a percentage of the quota allocated to the SFR for that species, sub-area and season held by a person for that season.

Note 2 Subsection 17 (6B) of the Act provides that a determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. Although section 46A of the *Acts Interpretation Act 1901* has been repealed, section 6 of the *Legislative Instruments Act 2003* provides that such an instrument is a disallowable instrument.

Part 5 Availability of SFRs

31 Conditions for registration as an eligible person

- (1) This section applies if AFMA publishes a notice under section 24 of the Act:
- (a) declaring that AFMA intends to grant SFRs for the fishery; and
 - (b) specifying the notice period.
- (2) For paragraph 26 (2) (a) of the Act, a person satisfies the conditions for registration if:
- (a) before the end of the notice period mentioned in paragraph (1) (a), the person applied to AFMA for registration as an eligible person for a grant of 1 or more SFRs for the fishery; and
 - (b) at the end of the notice period the person holds 1 or more of the instruments mentioned in the following table.

Item	Instrument or instruments
1	An Informally Managed Fishery permit — Australian sardine
2	An Informally Managed Fishery permit — Australian sardine and blue mackerel
3	A Mackerel A licence
4	A sequence of Mackerel B licence
5	A sequence of Zone A purse seine permits
6	A sequence of Zone D permits
7	A Zone A mid-water trawl permit
8	A Zone B dual gear permit
9	A Zone B mid-water trawl permit
10	A Zone B purse seine permit
11	A Zone C dual gear permit
12	A Zone C mid-water trawl permit
13	A Zone C purse seine permit
14	A Zone D dual gear permit
15	A Zone D mid-water trawl permit
16	A Zone D purse seine permit

Note 1 See section 24 of the Act for information about publication of a notice by AFMA declaring that AFMA intends to grant SFRs for fishing in a managed fishery.

Note 2 An application for registration as an eligible person for the grant of an SFR must be made within the period stated in a notice published under section 24 of the Act — see paragraph 25 (f) of the Act.

Section 32

Note 3 Under subsection 26 (2) of the Act, AFMA must register as an eligible person an applicant for registration who meets the conditions for registration and who has paid the prescribed fee (if any). At present there is no prescribed fee.

Note 4 A decision under subsection 26 (2) of the Act is subject to reconsideration under section 165 of the Act — see subsection 165 (2) of the Act. Application may be made to the Administrative Appeals Tribunal for review of a decision under section 165 of the Act — see subsection 165 (7) of the Act.

32 Availability of SFRs to holders of fishing permits for purse seine only — Zone A permit or Mackerel B licence

(1) In this section:

total permits and licences, for a year during the relevant period, means the total number of Zone A purse seine permits and Mackerel B licences held by eligible persons that:

- (a) form part of sequences of those permits or licences; and
- (b) were in force during the year.

(2) If:

- (a) an eligible person holds:
 - (i) a Zone A purse seine permit that is 1 of a sequence of those permits; or
 - (ii) a Mackerel B licence that is 1 of a sequence of those licences; and
- (b) in a year during the relevant period, a permit or licence mentioned in paragraph (a) (i) or (ii) that formed part of 1 of the sequences was in force for that year;

the following are available to the person for each permit or licence:

$$\frac{320\,000 \text{ eastern sub-area redbait SFRs}}{\text{Total permits and licences}}$$

$$\frac{180\,000 \text{ western sub-area redbait SFRs}}{\text{Total permits and licences}}$$

$$\frac{64\,000 \text{ eastern sub-area blue mackerel SFRs}}{\text{Total permits and licences}}$$

$$\frac{36\,000 \text{ western sub-area blue mackerel SFRs}}{\text{Total permits and licences}}$$

Section 34

256 000 eastern sub-area jack mackerel SFRs
Total permits and licences

144 000 western sub-area jack mackerel SFRs
Total permits and licences

33 Availability of SFRs to holders of Mackerel A licences — Zone A

If an eligible person holds a Mackerel A licence, the following are available to the person for each licence:

8 000 000 eastern sub-area redbait SFRs
Total number of Mackerel A licences held by eligible persons

4 500 000 western sub-area redbait SFRs
Total number of Mackerel A licences held by eligible persons

1 600 000 eastern sub-area blue mackerel SFRs
Total number of Mackerel A licences held by eligible persons

900 000 western sub-area blue mackerel SFRs
Total number of Mackerel A licences held by eligible persons

6 400 000 eastern sub-area jack mackerel SFRs
Total number of Mackerel A licences held by eligible persons

3 600 000 western sub-area jack mackerel SFRs
Total number of Mackerel A licences held by eligible persons

34 Availability of SFRs to mid-water trawl permit holders — Zone A

If an eligible person is the holder of a Zone A mid-water trawl permit, the following are available to the person for each permit:

640 000 eastern sub-area redbait SFRs
Total number of Zone A mid-water trawl permits held by eligible persons

360 000 western sub-area redbait SFRs
Total number of Zone A mid-water trawl permits held by eligible persons

Section 35

$$\frac{128\,000 \text{ eastern sub-area blue mackerel SFRs}}{\text{Total number of Zone A mid-water trawl permits held by eligible persons}}$$

$$\frac{72\,000 \text{ western sub-area blue mackerel SFRs}}{\text{Total number of Zone A mid-water trawl permits held by eligible persons}}$$

$$\frac{512\,000 \text{ eastern sub-area jack mackerel SFRs}}{\text{Total number of Zone A mid-water trawl permits held by eligible persons}}$$

$$\frac{288\,000 \text{ western sub-area jack mackerel SFRs}}{\text{Total number of Zone A mid-water trawl permits held by eligible persons}}$$
35 Availability of SFRs to permit holders — Zone B

(1) In this section:

western sub-area blue mackerel share means:
$$\frac{5\,000\,000 \text{ western sub-area blue mackerel SFRs}}{\text{Zone B factor}}$$
western sub-area jack mackerel share means:
$$\frac{4\,000\,000 \text{ western sub-area jack mackerel SFRs}}{\text{Zone B factor}}$$
western sub-area redbait share means:
$$\frac{1\,000\,000 \text{ western sub-area redbait SFRs}}{\text{Zone B factor}}$$
Zone B factor means the sum of the following:

- (a) the total number of Zone B purse seine permits held by eligible persons;
 - (b) the total number of Zone B mid-water trawl permits held by eligible persons;
 - (c) 1.5 times the total number of Zone B dual gear permits held by eligible persons.
- (2) If an eligible person is the holder of a Zone B dual gear permit, the following are available to the person for each permit:
- (a) 1.5 western sub-area blue mackerel shares;
 - (b) 1.5 western sub-area jack mackerel shares;
 - (c) 1.5 western sub-area redbait shares.

Section 36

- (3) If an eligible person is the holder of a Zone B mid-water trawl permit, the following are available to the person for each permit:
- 1 western sub-area blue mackerel shares;
 - 1 western sub-area jack mackerel shares;
 - 1 western sub-area redbait shares.
- (4) If an eligible person is the holder of a Zone B purse seine permit, the following are available to the person for each permit:
- 1 western sub-area blue mackerel share;
 - 1 western sub-area jack mackerel share;
 - 1 western sub-area redbait shares.

36 Availability of SFRs to permit holders — Zone C

- (1) In this section:

western sub-area blue mackerel share means:

$$\frac{3\,500\,000 \text{ western sub-area blue mackerel SFRs}}{\text{Zone C factor}}$$

western sub-area jack mackerel share means:

$$\frac{2\,500\,000 \text{ western sub-area jack mackerel SFRs}}{\text{Zone C factor}}$$

western sub-area redbait share means:

$$\frac{1\,000\,000 \text{ western sub-area redbait SFRs}}{\text{Zone C factor}}$$

Zone C factor means the sum of the following:

- the total number of Zone C purse seine permits held by eligible persons;
 - the total number of Zone C mid-water trawl permits held by eligible persons;
 - 1.5 times the total number of Zone C dual gear permits held by eligible persons.
- (2) If an eligible person holds a Zone C dual gear permit, the following are available to the person for each permit:
- 1.5 western sub-area blue mackerel shares;
 - 1.5 western sub-area jack mackerel shares;
 - 1.5 western sub-area redbait shares.
- (3) If an eligible person holds a Zone C mid-water trawl permit, the following are available to the person for each permit:
- 1 western sub-area blue mackerel shares;

Section 37

- (b) 1 western sub-area jack mackerel shares;
 - (c) 1 western sub-area redbait shares.
- (4) If an eligible person holds a Zone C purse seine permit, the following are available to the person for each permit:
- (a) 1 western sub-area blue mackerel share;
 - (b) 1 western sub-area jack mackerel share;
 - (c) 1 western sub-area redbait share.

37 Availability of SFRs to permit holders — Zone D

- (1) In this section:

eastern sub-area blue mackerel share means:

$$\frac{1\,750\,000 \text{ eastern sub-area blue mackerel SFRs}}{\text{Zone D factor}}$$

eastern sub-area jack mackerel share means:

$$\frac{1\,250\,000 \text{ eastern sub-area jack mackerel SFRs}}{\text{Zone D factor}}$$

eastern sub-area redbait share means:

$$\frac{500\,000 \text{ eastern sub-area redbait SFRs}}{\text{Zone D factor}}$$

Note **Zone D factor** is defined in section 3.

- (2) If an eligible person is the holder of a Zone D dual gear permit, the following are available to the person for each permit:
- (a) 1.5 eastern sub-area blue mackerel shares;
 - (b) 1.5 eastern sub-area jack mackerel shares;
 - (c) 1.5 eastern sub-area redbait shares.
- (3) If an eligible person is the holder of a Zone D mid-water trawl permit, the following are available to the person for each permit:
- (a) 1 eastern sub-area blue mackerel shares;
 - (b) 1 eastern sub-area jack mackerel shares;
 - (c) 1 eastern sub-area redbait shares.
- (4) If an eligible person is the holder of a Zone D purse seine permit, the following are available to the person for each permit:
- (a) 1 eastern sub-area blue mackerel share;
 - (b) 1 eastern sub-area jack mackerel share;
 - (c) 1 eastern sub-area redbait shares.

38 Availability of SFRs to sequence permit holders — Zone D

- (1) In this section:

BM is an acronym for blue mackerel.

BM SFR is an acronym for eastern sub-area blue mackerel SFR.

JM is an acronym for jack mackerel.

JM SFR is an acronym for eastern sub-area jack mackerel SFR.

RB is an acronym for redbait.

RB SFR is an acronym for eastern sub-area redbait SFR.

person's catch history, for a species and a person that is the holder of a sequence of Zone D permits, means the total weight of fish of the species taken from 1 January 1996 to 6 July 2004 under the person's sequence of Zone D permits, as recorded in an approved AFMA Logbook completed by or on behalf of each holder of a permit in the sequence.

total catch, of a species, means the total weight of fish of the species taken in Zone D by eligible persons:

- (a) from 1 January 1996 to 6 July 2004 inclusive (as recorded in an approved AFMA Logbook); and
- (b) who hold a sequence of Zone D permits.'

- (2) If an eligible person holds a sequence of Zone D permits, the following are available to the person for each permit:

$$\frac{1\,750\,000 \text{ eastern sub-area BM SFRs} \times \text{person's catch history of BM}}{\text{Total catch of BM}}$$

$$\frac{1\,250\,000 \text{ eastern sub-area JM SFRs} \times \text{person's catch history of JM}}{\text{Total catch of JM}}$$

$$\frac{500\,000 \text{ eastern sub-area RB SFRs} \times \text{person's catch history of RB}}{\text{Total catch of RB}}$$

39 Availability of eastern sub-area blue mackerel SFRs to holders of Informally Managed Fishery permit — Australian sardine and blue mackerel

- (1) In this section:

eastern sub-area blue mackerel share means:

$$\frac{1\,750\,000 \text{ eastern sub-area blue mackerel SFRs}}{\text{Zone D factor}}$$

Note *Zone D factor* is defined in section 3.

Section 40

- (2) If an eligible person is the holder of an Informally Managed Fishery permit — Australian sardine and blue mackerel, the number of eastern sub-area blue mackerel SFRs available to the person for each permit is 1 eastern sub-area blue mackerel share.

40 Availability of Australian Sardine SFRs

- (1) In this section:

Australian sardine factor means the sum of the following:

- (a) 1.25 times the total number of Informally Managed Fishing permits — Australian sardine and blue mackerel held by eligible persons; and
- (b) the total number of Informally Managed Fishing Permits — Australian sardine held by eligible persons.

Australian sardine share means:

$$\frac{3\,000\,000 \text{ Australian sardine SFRs}}{\text{Australian sardine factor}}$$

- (2) If an eligible person is the holder of an Informally Managed Fishery permit — Australian sardine, the number of Australian Sardine SFRs available to the person for each permit is 1 Australian sardine share.
- (3) If an eligible person is the holder of an Informally Managed Fishery permit — Australian sardine and blue mackerel, the number of Australian Sardine SFRs available to the person for each permit is 1.25 Australian sardine shares.

41 Request for grant

If a person is an eligible person, the person is taken to have made a request under section 31 of the Act for a grant of an SFR or SFRs that are available to the person under this Part.

42 Certificate showing grant

- (1) If AFMA gives a person a certificate evidencing the grant of an SFR for the fishery under subsection 22 (2) of the Act, AFMA must note the following details on the certificate:
- (a) the name of the person to whom the SFR is granted;
- (b) a description of the SFR;
- (c) that the SFR is granted for the fishery;
- (d) the conditions to which the SFR is subject.
- (2) A certificate may show the grant of more than 1 SFR to a person.

Section 44

- (3) AFMA must give to a person to whom an SFR is granted an extract of the Register that states the conditions to which the SFR is subject.

Note Section 45 of the Act provides that AFMA must enter certain information in the Register for each SFR that it grants, including such particulars as are prescribed. The SPF Regulations prescribe details that must be entered in the Register for a nominated boat.

43 Nomination of boat

- (1) The holder of an SFR may apply to AFMA, in an approved form, for a boat to be approved as the nominated boat for the SFR.
- (2) A boat may be a nominated boat for only 1 holder.
- (3) An application under subsection (1) must be accompanied by:
- (a) both:
 - (i) a statement by the holder, in an approved form, that the boat can safely and lawfully carry an observer and the observer's safety and monitoring equipment; and
 - (ii) a written undertaking by the holder, in an approved form, to carry an observer and the observer's safety and monitoring equipment if AFMA asks the holder to do so; or
 - (b) a written statement by the holder explaining why it is not safe to carry an observer and the observer's safety and monitoring equipment on the boat.
- (4) AFMA may refuse the application if the boat is incapable of carrying an observer and the observer's safety and monitoring equipment on the boat.
- (5) If AFMA approves the application, AFMA must:
- (a) enter in the Register, for the nominated boat, the details required by the SPF Regulations to be entered in the Register; and
 - (b) provide to the holder an extract of the Register that:
 - (i) states the conditions to which the SFR is subject; and
 - (ii) states the name of the nominated boat; and
 - (iii) is signed for AFMA by a person having authority to sign it.
- (6) The applicant may seek a review of a decision not to approve a boat as the nominated boat for the SFR, as if the decision were a relevant decision under section 165 of the Act.

44 Removal of boat from Register

- (1) This section applies for a nominated boat unless a statement of a kind mentioned in paragraph 43 (3) (b) applies to the boat.
- (2) AFMA may, in writing, cancel the approval of the boat as a nominated boat for an SFR if:
- (a) AFMA asks that an observer be carried on the boat, either with or without the observer's safety and monitoring equipment; and

Section 45

- (b) without reasonable excuse, the request is refused by the master of the boat or the holder of the SFR for which the boat is nominated.
- (3) The holder may seek a review of a decision to cancel the approval of the boat, as if the decision were a relevant decision under section 165 of the Act.

45 Request to cancel boat nomination

- (1) The holder of an SFR for which a boat is the nominated boat may apply in writing to AFMA, in the approved form, to cancel the nomination.
- (2) On receiving an application, AFMA must cancel the nomination.

Part 6 Transfer and lease of SFRs

46 Transfer of SFR

For subsection 49 (1) of the Act, the AFMA may refuse to approve the transfer of an SFR only if:

- (a) a proceeding for an offence under the Act, or regulations made under the Act has been brought against the transferor and has not been decided; or
- (b) an application for registration of another interest in the SFR has been received by AFMA before the application for transfer is received, and has not been dealt with; or
- (c) the SFR has been suspended under:
 - (i) subsection 38 (1) or (3) of the Act; or
 - (ii) paragraph 98 (3) (d) of the Act; or
- (d) AFMA:
 - (i) knows of a ground for suspension of the SFR under subsection 38 (1) or (3) of the Act or cancellation of the SFR under section 39 of the Act; and
 - (ii) has not decided whether to suspend or cancel the SFR; or
- (e) AFMA has decided to suspend or cancel the SFR, and:
 - (i) the period within which an application for review of that decision may be made has not ended; or
 - (ii) an application has been made for review of that decision, and the application has not been decided; or
- (f) the transfer will occur in a period starting 14 days before the issue of a levy invoice and ending when the levy is paid.

Note 1 A decision under section 49 of the Act is subject to reconsideration under section 165 of the Act — see subsection 165 (2) of the Act. Application may be made to the Administrative Appeals Tribunal for review of a decision under section 165 of the Act — see subsection 165 (7) of the Act.

Note 2 The Act sets out requirements for an application to transfer an SFR.

Note 3 The right to transfer an SFR is subject to a condition or conditions stated in the certificate for the SFR — see paragraph 22 (4) (a) of the Act.

47 Issue of certificates for transferred SFRs

- (1) If:
 - (a) a person seeks to transfer the ownership of 1 or more SFRs; and
 - (b) the transfer would not contravene section 49 of the Act;AFMA must send to the transferee a certificate showing the transferee as the owner of the transferred SFRs.

Section 48

- (2) If the transferor has not transferred all the SFRs held by the transferor, AFMA must send to the transferor a certificate showing the transferor as the owner of the SFRs that were not transferred.

Note See section 46 of the Act for information about the requirement to register the transfer of an interest in an SFR.

48 Leases of SFRs

The holder of an SFR for a season may lease the SFR to another person (the *lessee*) if the holder has not taken fish under the SFR in the season.

Part 7 **Obligations applying to holders of SFRs**

49 Purpose of Part 7

- (1) For paragraph 22 (3) (a) of the Act, the purpose of Part 7 is to impose conditions on all holders of SFRs.
- (2) For sections 38, 39 and 95 of the Act, an obligation imposed on the holder of an SFR by this Part is a condition of the SFR.

50 General obligations

- (1) The holder of an SFR must:
 - (a) comply with this Management Plan; and
 - (b) comply with any direction given under paragraph 17 (5A) (a) of the Act for the fishery; and
 - (c) take all reasonable measures to ensure that by-catch, and the impact of fishing operations on the marine environment, are kept to a minimum; and
 - (d) take all reasonable steps to minimise the loss of fishing gear; and
 - (e) ensure that all fish unloaded from the fishery are unloaded within Australia or an external Territory; and
 - (f) ensure that fish landed from the fishery are disposed of (whether by sale or otherwise) only to the holder of a fish receiver permit; and
 - (g) if required by AFMA in writing to do so, permit a person nominated by AFMA to travel as a fishery observer on board the boat being used to take fish under the SFR; and
 - (h) if required by AFMA in writing to do so, give AFMA reasonable access to biological, economic or technical information, or biological samples that are available to the holder; and
 - (i) unless AFMA determines otherwise in writing, have fitted to the boat a vessel monitoring system that complies with any regulations or conditions that apply to the boat.
 - (j) ensure that the following documents are carried on board the nominated boat at all times:
 - (i) the extract, or a copy of the extract, mentioned in paragraph 43 (5) (b);
 - (ii) any logbooks specified in the extract mentioned in subparagraph (i).
- (2) However, paragraph (1) (e) does not apply if the holder receives written approval from AFMA before landing the catch outside Australia or an external Territory.

Section 51

- (3) Despite paragraph (1) (f):
- (a) the holder of an SFR may, after unloading the catch, dispose of quota species of fish to 1 or more persons who are not the holder of a fish receiver permit; but
 - (b) the maximum amount of all quota species which may be disposed in accordance with paragraph (a) is 10 kg.

Note 1 See subsections 22 (3), (4) and (5) of the Act for additional obligations to which an SFR is subject.

Note 2 It is an offence to contravene a condition of an SFR — see section 95 of the Act.

Note 3 See subsections 32 (5), (6), (7) and (8) of the Act for obligations to which a fishing permit is subject.

Note 4 The holder of an SFR must also comply with the Act and with any regulations applying to the fishery.

Note 5 See section 38 of the Act for AFMA's power to suspend a fishing concession if it has reasonable grounds to believe that there has been a breach of an obligation to which the concession is subject.

Note 6 See Part 3 about directions given under paragraph 17 (5A) (a) of the Act.

51 Obligations relating to fishing in more than 1 area

- (1) The holder of an SFR must not fish under a permit (however described) issued under a State or Territory law if, on board the boat being used, there are fish taken under the SFR.
- (2) The holder of an SFR must not fish in a sub-area of the fishery if, on board the boat being used, there are fish that were taken:
 - (a) in another sub-area; or
 - (b) in the high seas; or
 - (c) under a permit, however described, issued under a law of a State or Territory.
- (3) However, if AFMA gives written approval to the holder for fishing that would contravene subregulation (1) or (2), the holder may fish in accordance with the approval.

52 Obligations relating to interactions with certain species and communities

- (1) The holder of an SFR must take all reasonable steps to avoid interactions with:
 - (a) cetaceans; and
 - (b) listed threatened species, listed migratory species and listed marine species; and
 - (c) listed threatened ecological communities.

Section 52

- (2) The holder of an SFR must, if the activities of the nominated boat for the purposes of the SFR result in an interaction with a species or community mentioned in subsection (1):
- (a) record details of the interaction in a logbook kept for that purpose; and
 - (b) if there is a fishery observer on the boat:
 - (i) immediately tell the fishery observer about the interaction, and allow the fishery observer to observe its consequences; and
 - (ii) give whatever assistance is necessary for the fishery observer to collect any data, or make any observations, requested by AFMA; and
 - (c) if the interaction results in an injury to a member of the species or community — do everything that can practicably be done to give aid to it; and
 - (d) if the interaction results in the death of a member of the species or community and it is necessary to discharge its carcass — discharge the carcass from the boat in a way that does not attract birds or mammals to the boat.

Section 53

Part 8 Directions not to engage in fishing**53 Directions not to engage in fishing**

- (1) For paragraph 17 (5A) (a) of the Act, AFMA may direct that fishing is not to be engaged in in the fishery, or a sub-area or part of a sub-area of the fishery, in a particular period or periods.

Note Subsection 17 (5B) of the Act provides that, if AFMA gives a direction for a part of the fishery, the direction may identify the part in any way.

- (2) Before giving the direction, AFMA must consult with, and consider the views of, the relevant advisory committee about the content of the direction.
- (3) At least 7 days before the direction takes effect, AFMA must tell the holders of SFRs, scientific permits and foreign fishing licences for the fishery, in writing, about the direction.
- (4) However, if the direction is given in an emergency:
- (a) subsections (2) and (3) do not apply; and
 - (b) AFMA must tell the holders mentioned in subsection (3), in writing, about the direction as soon as it can practicably do so after the direction is made.

Note The holder of an SFR must comply with a direction — see sections 22 and 95 of the Act.

Part 9 Miscellaneous

54 Delegation

AFMA may, by writing under its common seal, delegate to an officer of AFMA any of its powers or functions under this Plan, other than its powers or functions under sections 17, 21, 24, 29 and this section.

Note AFMA may delegate its powers under sections 17, 21, 24 and 29 to the Managing Director of AFMA, see subsection 17 (11) of the Act.

55 Approved form

- (1) AFMA may approve a form for the purposes of a section of this Plan.
- (2) An approval under subsection (1) must be in writing.

56 Agents

- (1) If the holder of an SFR appoints a person to be the holder's agent for any matter to which this Management Plan applies, the holder must, as soon as practicable, give AFMA a notice in the approved form specifying the name of the agent and the powers that may be exercised by the agent.
- (2) For this Management Plan, the appointment of an agent by the holder of an SFR is of no effect unless AFMA has been notified of the appointment under subsection (1).
- (3) For the purpose of making a decision about an application under a provision of this Management Plan:
 - (a) AFMA may assume that a notice given under this section is properly given; and
 - (b) AFMA is under no duty to verify, by other means, the authority of an agent to make the application.

57 Notices

- (1) A notice to the holder of a fishing concession is taken to be given to the holder if it is:
 - (a) delivered to the holder's residential or office address; or
 - (b) posted to the holder's postal address; or
 - (c) sent by fax to the holder's fax number; or
 - (d) sent by e-mail to the holder's e-mail address.
- (2) A notice is taken to have been given to the holder:
 - (a) if the notice is delivered to the holder's residential or office address — on the day when it is delivered; and

Section 57

- (b) if the notice is sent by fax to the holder's fax number, or by e-mail to the holder's e-mail address:
 - (i) 24 hours after the notice is sent; or
 - (ii) if that time does not fall between 9 am and 5 pm on a working day in the place to which the notice is sent — at 9 am on the next working day in that place.

Note Under subsection 160 (1) of the *Evidence Act 1995*, it is presumed (unless evidence is presented that is sufficient to raise doubt about the presumption) that a postal article sent by pre-paid post addressed to a person at a specified address in Australia, or in an external Territory, was received at that address on the fourth working day after it was posted.

- (3) A notice to AFMA must:
 - (a) be addressed to the Manager, Licensing, Australian Fisheries Management Authority; and
 - (b) be delivered, posted or sent by fax or e-mail.

Part 10 Transitional

58 Transitional

- (1) This section ceases to have effect on the day specified in a notice published in the *Gazette* under subsection (2).
- (2) On, or as soon as practicable after, the day that the first SFRs granted under this Management Plan come into effect, AFMA must publish a notice in the *Gazette* stating that this section ceases to have effect on a day specified in the notice.
- (3) The day specified in a notice under subsection (2) must not be earlier than the day on which the notice is published.
- (4) Despite section 25, a person may engage in fishing in the fishery if:
 - (a) the person holds a fishing permit authorising fishing in the fishery; and
 - (b) the permit is in force.
- (5) This Management Plan does not affect a fishing permit that authorises fishing in the fishery, or a condition to which the permit is subject.
- (6) However, subsection (5) does not affect AFMA's power to give a direction under section 53.
- (7) This Management Plan does not prevent AFMA from granting or transferring a fishing permit that authorises fishing in the fishery.

Schedule 1 Sub-areas of the fishery

(section 3)

1 Eastern sub-area

The area of the eastern sub-area is the part of the AFZ bounded by a notional line beginning at the point of intersection of the parallel of latitude 24° 29' 54" S and the meridian of longitude 154° 40' 04" E, and running progressively as described in the following table.

Item	Description
1	East along that parallel to its intersection with the outer limit of the AFZ
2	Generally southerly and westerly along the outer limit of the AFZ to the intersection with the longitude 146° 30' E
3	North along that meridian to the point of intersection with the coastline of Tasmania
4	Generally easterly, northerly and westerly along that coastline to the intersection of the meridian of longitude 146° 30' E
5	North along that meridian to the intersection with the coastline of Victoria
6	Generally northerly and easterly along the Australian coastline to the intersection of the eastern shore of Australia with the parallel of latitude 28° 10' S
7	East along that parallel to its intersection with the meridian of longitude 154° 40' 04" E
8	North along that meridian to the point where the line began

2 Western sub-area

The area of the western sub-area is the part of the AFZ bounded by a notional line beginning at the intersection of the parallel of latitude 31° 00' S and the coastline of Western Australia, and running progressively as described in the following table.

Item	Description
1	West along that parallel to the intersection with the outer limit of the AFZ
2	Generally southerly and easterly along that outer limit to the point of intersection with the meridian of longitude 146° 30' E
3	North along that meridian to the intersection with the coastline of Tasmania
4	Generally westerly, northerly and easterly along the coastline to the intersection with the meridian of longitude 146° 30' E

Item	Description
5	North along the meridian to the intersection with the coastline of Victoria
6	Generally northerly and westerly along the Australian coastline to the point where the line began

3 Australian sardine sub-area

The area of the Australian sardine sub-area is the part of the AFZ bounded by a notional line beginning at the point of intersection of the parallel of latitude 24° 29' 54" S and the meridian of longitude 154° 40' 04" E and running progressively as described in the following table.

Item	Description
1	East along that parallel to its intersection with the outer limit of the AFZ
2	Generally southerly to the intersection of the geodesic which is a continuation of the landward boundary between New South Wales and Victoria
3	West along the geodesic to the intersection with the eastern shore of Australia
4	Generally northerly and easterly along the Australian coastline to the intersection of the eastern shore of Australia with the parallel of latitude 28° 10' S
5	East along that parallel to its intersection with the meridian of longitude 154° 40' 04" E
6	North along the meridian to the point where the line began

Schedule 2 Zones A, B, C and D

(section 3)

1 Zone A

The area of Zone A is the part of the AFZ bounded by a notional line beginning at the intersection of the parallel of latitude 42° 12' S with the western coastline of Tasmania, and running progressively as described in the following table.

Item	Description
1	West along that parallel to the intersection with the outer limit of the AFZ
2	Generally south-easterly, easterly, north-easterly and northerly along that outer limit to the intersection with the parallel of latitude 39° 30' S
3	West along that parallel to the intersection with the meridian of longitude 146° 30' E
4	South along that meridian to its point of intersection with the northern coastline of Tasmania
5	Generally westerly, southerly and south-easterly along the coastline to the point where the line began.

2 Zone B

The area of Zone B is the part of the AFZ bounded by a notional line beginning at the intersection of the meridian of longitude 31° 00' S and the coastline of Western Australia, and running progressively as described in the following table.

Item	Description
1	West along that parallel to the intersection with the outer limit of the AFZ
2	Generally southerly and easterly along that outer limit to the point of intersection with the meridian of longitude 138° 08' 05" E
3	North along that meridian to the intersection with the coastline of South Australia
4	Generally southerly and westerly along that coastline to the point where the line began.

3 Zone C

The area of Zone C is the part of the AFZ bounded by the notional line beginning at the intersection of the meridian of longitude 138° 08' 05" E and the coastline of South Australia then running progressively as described in the following table.

Item	Description
1	South along that meridian to the point of intersection to the outer limit of the AFZ
2	Generally south-easterly and southerly along that outer limit to the intersection with the parallel of latitude 42° 12' S
3	East along that parallel to its intersection with the coastline of Tasmania
4	Generally north-westerly and easterly along the coastline to the point of intersection with the meridian of longitude 146 30' E
5	North along that meridian to its intersection with the coastline of Victoria
6	Generally westerly and north-westerly along the coastline to the point of where the line began.

4 Zone D

The area of Zone D is the part of the AFZ bounded by a notional line beginning at the intersection of the parallel of latitude 28° 10' S with the coastline of New South Wales then running progressively as described in the following table.

Item	Description
1	East along that parallel of latitude to the intersection with the outer limit of the AFZ
2	Generally southerly, westerly and easterly along the outer limit of the AFZ to the intersection with the parallel of latitude 39° 30' S
3	East along that parallel to the intersection with the meridian of longitude 146° 30' E
4	North along that meridian to the point of intersection with the coastline of Victoria
5	Generally northerly, easterly and westerly along the coastline to the point where the line began.

Schedule 3 IMF 1 and IMF 2 sub-areas

(section 3)

1 IMF 1 sub-area

The area of the IMF 1 sub-area is the part of the AFZ bounded by a notional line commencing at the point of intersection of the parallel of latitude 24° 29' 54" S and longitude 154° 40' 4" E then running progressively as described in the following table.

Item	Description
1	South along that meridian of longitude 154° 40' 4" E to its intersection with the parallel of latitude 27° 47' 25.29" S
2	South-westerly along the geodesic to the point of latitude 27° 48' S and longitude 154° 22' E
3	South-westerly along the geodesic to the point of latitude 27° 58' S and longitude 154° 22' E
4	South-westerly along the geodesic to the point of latitude intersection of the eastern shore of Australia with the parallel of latitude 28° 10' S
5	East along the parallel of latitude 28° 10' S to its intersection with the outer limit of the AFZ
6	Generally northerly, westerly, easterly, northerly to its intersection with the parallel of latitude 24° 29' 54" S
7	West along the parallel of latitude 24° 29' 54" S to the point where the line began.

2 IMF 2 sub-area

The area of the IMF 2 sub-area is the part of the AFZ bounded by a notional line commencing at the point of intersection of the parallel of latitude 28° 10' S with the coastline of New South Wales and running progressively as described in the following table.

Item	Description
1	East along that parallel to its intersection with the outer limit of the AFZ
2	Generally southerly, westerly and easterly along the outer limit of the AFZ to the intersection with the geodesic which is a continuation of the landward boundary between the New South Wales and Victoria
3	North westerly along that geodesic to the intersection with the coastline of New South Wales
4	Generally northerly, easterly and westerly along that coastline to the point where the line began.

Schedule 4 Quota species

(section 3)

Item	Common name	Scientific name
1	Blue mackerel	<i>Scomber australasicus</i>
2	Jack mackerel	<i>Trachurus declivis</i> or <i>Trachurus murphyi</i>
3	Australian sardine	<i>Sardinops sagax</i>
4	Redbait	<i>Emmelichthys nitidus</i>

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.