Otway Marine Industries Coexistence Cooperative (OMICC)

March 2025

OTWAY ADJUSTMENT PROTOCOL (Consultation Draft)

Displacement |Loss of Catch | Fishing Gear Loss or Damage

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1 Protocol Overview

1.1 Purpose

This protocol establishes a baseline environmental standard to underpin petroleum activity adjustment for displacement, loss of catch, and fishing gear loss or damage, between petroleum titleholders and commercial marine operators, including fishers.

This protocol provides a practical, evidence-based process and reasonable monetary adjustment to licensed commercial fishers for displacement, loss of catch, and fishing gear loss or damage. Adjustment is available during a petroleum activity and will remain available for a specified period after the completion of a petroleum activity conducted under an Environment Plan (**EP**) that references, and is therefore subject to, this protocol.

This protocol also serves as the mechanism for other marine operators (e.g. fishing co-operatives, fishing charters, dive schools) to initiate discussions with titleholders on evidence-based monetary adjustment if they could potentially be impacted by petroleum activities.

1.2 Background

In 2018, National Energy Resources Australia (**NERA**) in consultation with an industry consortium, established the Collaborative Seismic Environment Plan (**CSEP**) Project, to seek approval from the National Offshore Petroleum Safety and Environmental Management Authority (**NOPSEMA**) for seismic survey activities in an area in Commonwealth waters off Western Australia and the Northern Territory from 2021 and beyond. The CSEP Project was aimed at achieving fundamental and long-term improvements to the way that seismic activities were planned with due consideration for commercial fishing activities.

As part of this project, an adjustment protocol (the NERA Protocol) was developed by the CSEP Project Steering Committee in consultation with State, Territory and Commonwealth commercial fishing license holders as well as relevant fishing associations, regulators, and petroleum industry associations.

In recent years the NERA Protocol has become a petroleum industry standard for all types of activities and has been used as the basis of this Otway Commercial Marine Operators Adjustment Protocol (Otway Adjustment Protocol (OAP)).

1.3 Commitment

Recognising the collaborative benefits the NERA Protocol has provided where it has been adopted, petroleum titleholders in the Otway offshore region (refer **Appendix 1**) commit to minimising impacts on commercial marine operators, including commercial fishing and the fish stocks that support the fishing industry primarily through avoidance of each others' activities.

However, petroleum titleholders recognise that their activities may, from time-to-time, take place in the same area and at the same time as commercial operations of others who have a history of using that area. Minimising interference with each other's rights and interests is also reflected in primary petroleum and fishing legislation[1].

[1] For relevant statutory information refer to section 280 Offshore Petroleum and Greenhouse Gas Storage Act 2006, section 124 Petroleum (Submerged Lands) Act 1982 (Vic), section 124 Petroleum (Submerged Lands) Act 1982 (Tas), and section 171 Fish Resources Management Act 1994.

Best endeavours will be made to avoid, minimise, and mitigate potential impacts on other marine operators, including the commercial fishing industry, before the adjustment processes contained in this protocol are applied.

1.4 Definitions

Activity – A petroleum activity or greenhouse gas storage activity and includes, where the context permits, a reference to a proposed activity or any stage of an activity.
Adjustment Area – An area extending 10 kilometres around the perimeter of a seismic survey Acquisition Area or a circular area of radius 4 kilometres around a drilling activity (refer Figure 1 for explanatory diagram).[2] [3]

Acquisition Area - The area of petroleum activity where seismic data is acquired (not a permitted Acquisition Area in an Environment Plan).

Active Source Area – An area including and around the Acquisition Area in which the seismic energy source (airgun array) can be active. This includes survey line run-ins and run-outs.

Affected person – for the purpose of this protocol, an affected person is a commercial fishing licencee, other commercial marine operator, company or business who would have either a) received the revenue from the landed catch or other activity that is the subject of a claim under this protocol, or b) can show they have incurred the cost of lost or damaged fishing gear, equipment or displacement.

Catch Per Unit of Effort (CPUE) – For the purposes of this protocol the catch will be defined in kilograms of landed catch and the unit of effort will be defined in hours (decimal hours where available) fished for trawl, hours fished or kilometres of line set or number of hooks per kilometre for line fishing, or number of pot lifts, resulting in the landed catch e.g. CPUE = kilograms per (trawl/line) hour or pot lift.

Claim Period – The period during and after a petroleum activity for which a claim for loss adjustment can be made, which is from the notified start date of an activity and no more than 30 days after the notified end date of an activity.

Commercial fisher – for the purpose of this protocol, a commercial fisher is the affected entity, person, licence holder, company or business who would have received the revenue from the landed catch that is the subject of a claim under this protocol, or who can show they have incurred the cost of lost or damaged fishing gear or displacement.

Displacement – the relocation of commercial fishing activity or other commercial marine operations from within the Adjustment Area to a Displacement Area as a result of a petroleum activity.

Displacement Area – an alternative fishing ground that is within 50 kilometres of the Adjustment Area.

Fishing gear – Fishing equipment deployed in the water by a vessel engaged in a commercial fishing activity.

[2] 10 kilometers is proposed as a reasonable distance around the Acquisition Area of a seismic survey and consistent with existing industry standards.

[3] Spatial parameters of an Adjustment Area for a 2D survey will require case-by- case specification due to the differing survey layout.

Historical fishing activity, block – A statistical fishing block (as defined here), or fishing event location (latitude/longitude) plotted within the 10 x 10 nm grid system, with fishing activity detailed in either a) Government catch and effort information or b) recorded in a statutory Catch and Disposal Record for at least two out of the previous five years, prior to a relevant petroleum activity conducted under this protocol.

Landed catch – The whole landed weight as detailed in Government catch and effort information provided for the purpose of this protocol, or as recorded in statutory Catch and Disposal Records.

Lodgement Period – The period during and after a petroleum activity within which a claim can be lodged, which is from the notified start date of an activity and no longer than 183 days after the notified end date of an activity.

Market price – The price received by a commercial fisher at the point of first landing, excluding any price margins for marketing, transport, sales commissions, value adding or packaging. In respect to a claim under this protocol, the market price should reflect the price at the time the loss of catch was incurred by the claimant.

Other commercial marine operator – means a commercial marine operator who identified they could potentially be impacted by the petroleum activity during relevant persons consultation in preparation of the relevant EP.

Petroleum activity – means operations or works in an offshore area undertaken for the purpose of exercising a right conferred on a titleholder under the OPGGSA by a petroleum title or discharging an obligation imposed on a petroleum titleholder by the OPGGSA.

Statistical fishing block – Government statistical grid/block numbering system used to record commercial fishing activity data and referred to in this protocol as a block.

Titleholder – The registered holder of the Access Authority, Special Prospecting Authority, Exploration Permit, Retention Lease or Petroleum Production Licence over which the petroleum activity will be acquired, as detailed in the EP for the petroleum activity subject to this protocol.

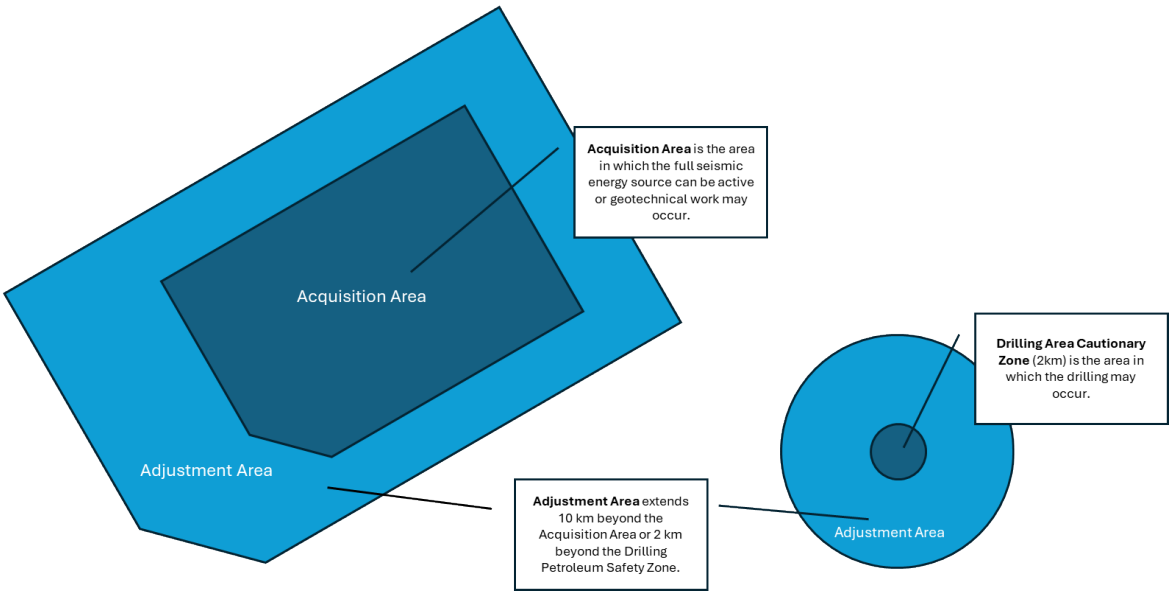


Figure 1 - Representation of defined terms for Acquisition Area and Adjustment Area

1.5 Scope

The OAP is intended to apply to commercial users of the marine environment who are directly affected by petroleum activities, where interference is unavoidable.

This protocol covers:

- A marine operator who is a commercial fisher (refer definition) who fishes as a normal part of their commercial fishing activity within an Adjustment Area (refer definition), during and/or for a specified period after a petroleum activity, conducted under an accepted EP that references and is therefore subject to this OAP. Adjustment is also available for fishing outside of an Adjustment Area in some circumstances, if agreed in advance with the titleholder.
- Other commercial marine operators who identified they could be potentially affected by the petroleum activity during relevant persons consultation, who utilise an area as a normal part of their commercial activity within an Adjustment Area (refer definition) during a petroleum activity conducted under an accepted EP that references and is therefore subject to this OAP.

This protocol applies to marine operators with one or more Victorian, Tasmanian, or Commonwealth fishing licences.

1.6 Consultation

This protocol has been founded by CGG and ConocoPhillips Australia and developed by Klarite Sustainable Ventures (**KSV**) building on the NERA CSEP Commercial Fishing Industry Adjustment Protocol. While preparing EPs for petroleum activities in the Otway, the founding titleholders consulted with fishers, fishing license holders, and fishing associations, which indicated a single method for compensation was desirable. Subsequently, on the request of the founders, KSV has undertaken preliminary consultation with some fishing industry associations and other commercial marine users identified during relevant persons consultation, as relevant persons, to provide input.

Each titleholder will continue to consult as per the requirements of the regulations with each relevant person. Consultation on this protocol may also be carried out by KSV on behalf of each titleholder proposing to adopt this protocol. All records of consultation will be treated as confidential in accordance with Section 25(4) of the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023.

Consultation on the OAP will include:

- Writing to all commercial fishers (Commonwealth and State) who may have rights within the Otway region providing an opportunity for input into the content and format of the protocol.
- Writing to other commercial marine operators who identified they could be potentially impacted by the petroleum activities during consultation in preparation of the Eps.
- Inviting fishing associations and commercial marine operators, including fishers to nominate appropriately qualified and experienced claims assessors for their industries/fisheries.

1.7 Operation of the protocol

Notification of the establishment of an Adjustment Area will be provided to relevant commercial fishing licence holders and other commercial marine operators in writing, no less than 28 days before a petroleum activity starts. Notification is to be provided in the form of a map plus digital files in easily readable formats such as KML, GPX or shapefiles.

Fishers (the fishing vessel/licence) must have established previous fishing history, at a minimum of two out of the previous five years, for all block(s) or fishing event(s) for which they wish to make a claim for loss of catch or displacement adjustment under this protocol.

To receive adjustment under this protocol, a commercial fisher must be able to show that they would have received the revenue from the landed catch that is the subject of a claim, incurred additional costs for displacement, or show that they have incurred the cost of lost or damaged fishing gear.

Adjustment under this protocol is dependent on a commercial fisher or commercial marine operator continuing to carry out their activities to the best of their ability and to mitigate and limit financial loss despite the occurrence of a petroleum activity. Titleholders using this Protocol reserve the right to refuse a claim if fishers interfere with a petroleum activity through deliberately operating in properly notified areas, noting that such interference may also be in breach of Section 603 of the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (See Appendix 7).

Note that this protocol may be referred to in the EP developed by each titleholder to manage potential impacts to commercial fishing licence holders and other marine users, where identified during consultation, and will therefore be subject to inspection under NOPSEMA's environmental inspection program.

2 Commercial Adjustment Available Under This Protocol

2.1 Displacement

If a commercial fisher is unable to fish in their historical fishing area (refer definition) within an Adjustment Area during a petroleum activity and incurs costs over and above the normal running costs for a fishing trip while relocating to another historical fishing area, then additional costs associated with increased distance/transit time, fuel and crewing will be considered under this protocol for monetary adjustment. The Displacement Area is an alternative fishing ground within 50 kilometres of the Adjustment Area.

For fishers, displacement will be assessed based on a comparison of the running costs per day at sea against the previous yearly average. A commercial fisher who decides it is necessary to relocate to another fishing ground because of a petroleum activity subject to this protocol and wants to be considered for displacement adjustment must notify the titleholder of the petroleum activity, where possible, prior to undertaking the relocation. When making a claim, evidence must also be provided to substantiate fishing gear in use at the claim time.

Claimants undertaking commercial activities within their normal operating range during a petroleum activity may be eligible to make a claim where the fisher can evidence that the average distance travelled per fishing operation is greater compared to the historical pattern during the same calendar month(s) in the preceding 5 years. This includes the distance travelled between the fishers' home port and subsequent fishing locations. It is not necessary to have records for all years for that calendar month, but there must be at least one year for the corresponding calendar month.

For other commercial marine operators, displacement will be assessed on a case-by-case basis through prior agreement with a titleholder on the method of calculation. Timeframes related to displacement claims can be found in Appendix 6.

2.2 Loss-of-Catch Adjustment

Evidence-based loss-of-catch adjustment under this protocol relates to fish lawfully caught and retained by a fishing vessel under a Victorian, Tasmanian or Commonwealth fishing licence. The adjustment process applies to historical fishing activity over established fishing grounds, and not to speculative fishing activity.

The loss-of-catch adjustment process applies to commercial fishing activity conducted by a licensed fishing vessel within an Adjustment Area, and other fished areas within a given calendar month. For each month where adjustment is claimed, the licensed fishing vessel must conduct fishing within an Adjustment Area.

Loss-of-catch adjustment is available for the period of an activity and for six months after an activity is completed[4]. However, claims must fall within the thirty-day claim period after the activity. This adjustment process assumes that any loss-of-catch experienced will be demonstrated through a reduced CPUE for that fishing vessel (or license if subject to boat replacement) compared to previous years for the same eligible claim block/fishing event location by species by month.

Loss of catch assessments will be conducted using the petroleum activity period catch and effort

[4] Temporal parameters for a 2D survey will be considered on a case-by-case basis.

data per month plus the previous 10 years (by same block/fishing event location and month) where available.

Timeframes related to loss-of catch claims can be found in Appendix 6.

2.2.1 Method of Assessing Loss-of-Catch Adjustment

Treatment of catch-and-effort data to determine eligible fishing events to be included in the adjustment assessment process.

As detailed in this protocol, adjustment is available for fishing activity where it can be shown there is a minimum of two out of the prior five years where fishing activity has taken place in the same block or fishing event location that is the subject of a claim. This requirement applies to the Adjustment Area and for any other block/fishing event location/area for which adjustment is being claimed.

For State fisheries, catch-and-effort data are provided in a 10 x 10 nm statistical grid format, the same block by month will be checked for the five years preceding the activity year to ascertain the minimum requirement of a minimum of two years fishing activity within the previous five years. Where catch-and-effort data are provided in larger than 10 x 10nm statistical grid format, applicants may be asked for additional positional information for blocks that partially overlap the Adjustment Area, or are outside of the Adjustment Area, to assess the minimum fishing history requirement.

For Commonwealth fisheries, catch-and-effort data from AFMA are provided for the location of each fishing event identified with latitude and longitude coordinates. The existing Victorian grid system will be used to assess the minimum fishing history requirement. The start point of each fishing event will be plotted within the 10 nm grid system to aid the assessment of previous fishing history by allocating each event to a 10 nm block to determine fishing events eligible to be included in the adjustment assessment process. Note that assessors have the flexibility to make judgements that will enhance the statistical accuracy of an assessment and/or provide balanced practical assessment outcomes.

2.2.2 Calculating an average CPUE

Catch-and-effort history covering the prior 5 years is required to calculate an average CPUE value. Averaging across this period reduces the influence of yearly fluctuations in recruitment and environmental parameters.

CPUE will be defined in kilograms of landed catch and the unit of effort will be defined in hours (decimal hours where available) fished for trawl, hours fished, or kilometres of line set or number of hooks per kilometre for line fishing or number of trap lifts, resulting in the landed catch, for example CPUE = kilograms per trawl/line hour or trap lift. Average CPUE will be based on the mean catch-and-effort values of all eligible fishing events per claim month.

It is recognised that in some cases, 5 years of catch history data may not be available and where this occurs an assessor should determine an appropriate average CPUE based on the information available in the application and any other information that an assessor deems appropriate.

The use of 5 years prior catch history and the intention of this protocol is that assessments are conducted based on the available catch and effort information. However, an assessor may also consider significant catch trends within a fishery and/or management changes if they are thought to materially affect resulting catch rates or landed catch volumes.

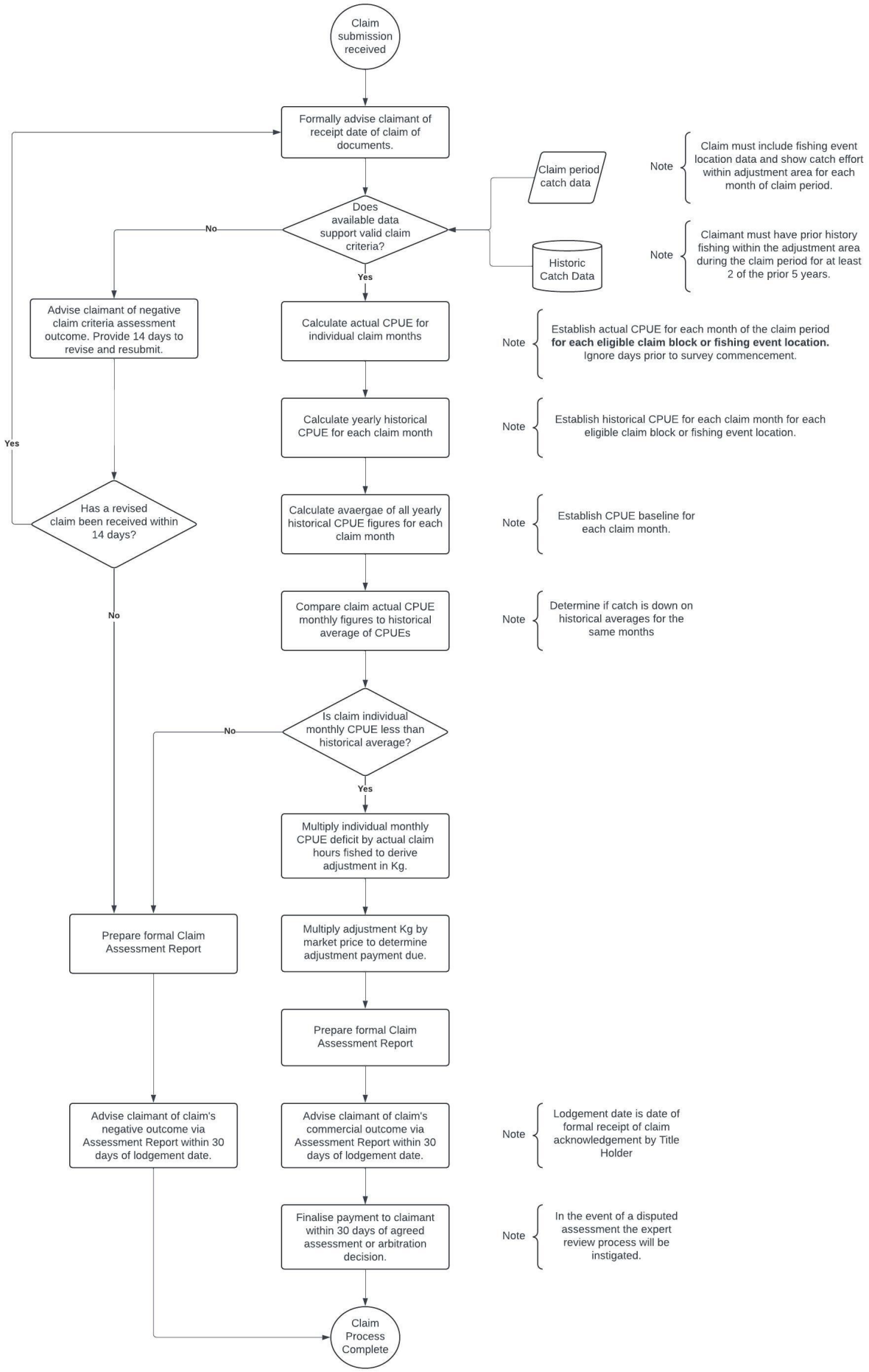
2.2.3 Loss-of-Catch Adjustment Assessment Method

1. Claim month must contain fishing activity within the Adjustment Area.
2. A claimant must have historical fishing activity (refer definition) for each block or fishing event location subject to a claim.
3. Average CPUE's are calculated for each calendar month for all eligible fishing events, using the previous 5 years of data. These averages are used as a baseline CPUE from which to assess claims.
4. The CPUE for the month/s and block/s being claimed for will then be compared to the baseline CPUE's calculated for the same block/fishing events and month/s, and where a shortfall is established, an adjustment will be calculated.
5. The established shortfall in CPUE will be multiplied by the unit of effort (number of pot lifts, trawl hours, kilometres of line set/number of hooks per kilometre,) fished for that claim month, and then the grouped species market price, to provide the amount of monetary adjustment due for that month.
6. Adjustment can be calculated for individual species or combined as appropriate.

2.2.4 Adjustment Method Loss of Catch Adjustment Calculation Example

Claim period April 2020	Species: Rock Lobster Pot Lifts: 400 Market price: $80/kg Total catch: 500 kgs.
Claimant has historical fishing activity within Adjustment Area prior to April 2020	Condition met
Claimant fished in Adjustment Area during April 2020	Condition met
April historical baseline CPUE	1.75kg/potlift
April 2020 CPUE	1.25kg/potlift
Shortfall in CPUE	0.50 kg/potlift
Shortfall multiplied by 400 pot lifts in April 2020	200kg
200 kgs multiplied by market price of $80 per kg	$1,600
Monetary adjustment due for reduced catch April 2020	$1,600
Administration Allowance for claim with supporting documents	$1,950
Total Remuneration for claim	$3,550

2.2.5 Loss of Catch Assessment Flow Chart



2.2.6 Exceptions to loss-of-catch assessment method information requirements.

Where a fisher is unable to provide 5 years prior catch-and-effort data due to Government confidentiality requirements or other reason, an assessment may still be conducted subject to the claim assessor being satisfied that an accurate assessment can still be conducted using the volume of data available.

If requested by the claimant, an assessment may be conducted using a fisher's own catch and effort data where a claim assessor forms the view that the data is consistent with Government data accuracy and formatting and that the data is suitable to conduct an accurate assessment.

The loss of catch adjustment process under this protocol does not cover circumstances where there may be discussions and/or agreement reached between a petroleum activity titleholder and a commercial fisher prior to an activity taking place, that it is not appropriate for fishing to occur within the area of a petroleum activity. Likewise, if a commercial fisher feels that they will be disadvantaged by a petroleum activity due to alternative suitable fishing grounds not being available to them during the petroleum activity, then they should engage with the titleholder ahead of an activity commencing.

A commercial fisher wishing to lodge a claim for adjustment should notify the titleholder of their intention to lodge a claim as soon as possible after the conclusion of operations of a petroleum activity.

2.3 Fishing gear loss or damage

A commercial fisher may lodge a claim in accordance with this protocol if they experience accidental loss or damage of deployed fishing gear where a fisher can demonstrate that the petroleum activity and/or the in-water equipment or supporting vessels subject to this protocol.

Through pre-activity notifications and communications, titleholders and commercial fishers should have an awareness of activity and fishing activities and make all reasonable efforts to avoid direct interaction and fishing gear loss or damage. It should be noted that petroleum activity vessels/rigs carrying out petroleum activities identify as 'vessel restricted in her ability to manoeuvre' under international marine navigation laws.

If fishing gear loss or damage occurs, the commercial fisher should immediately notify the titleholder.

When lodging a claim, the claimant should clearly document when, where and how the gear damage or loss occurred and where possible, the name and details of vessel(s) involved in the incident. A claim should include a quote (two where possible) with costs associated with repairing or replacing the lost or damaged fishing gear.

As a result of assessing the claim, by mutual agreement with the claimant, the titleholder may offer to cover the cost of repairing or replacing the damaged fishing gear or providing like-for-like replacement equipment.

Fishers making a claim for lost or damaged gear may also make a CPUE based claim for the lost catch associated with the lost or damaged gear.

In the event a claim for forgone catch has been submitted, the titleholder may (at their sole expense) enlist the services of an independent person or organisation to assess the claim. If agreement cannot be reached between the claimant and titleholder, then refer to the independent expert review provisions in the *How long will it take to deal with my claim and independent expert review process* section of this protocol.

A claim for fishing gear loss or damage must be lodged within 6 months of the conclusion of the activity.

3 Claim Information and Assessment Process

Titleholders conducting petroleum activities in accordance with an EP subject to this protocol will provide a centralised contact point and online portal to relevant commercial fishers/marine operators relating to lodging a claim or notification regarding displacement, loss of catch, or fishing gear loss or damage, as relevant. Contact information will also be provided to relevant fishing associations as the respective peak commercial fishing industry bodies.

All information provided in an application under this protocol must be kept confidential by the titleholder, an assessor or expert reviewer of a claim and any other person who has access to the information.

Provided a claimant can demonstrate the required previous fishing history within an Adjustment Area, if all the remaining information requirements set out in this protocol are not available to a claimant, then such claims will be considered on a case-by-case basis, in consultation with the nominated competent claim assessor. For example, if a commercial fisher, whose regular fishing grounds are within the Displacement Area, believes they are indirectly affected by another commercial fisher who has been displaced and has moved into the first fishers regular fishing grounds they may qualify as a claimant under the CPUE adjustment process detailed above.

An option for applicants lodging a claim is to authorise an assessor to access the relevant fishing catch and effort information directly with the appropriate Government Department. Alternatively, applicants may provide the required Government catch and effort information with their claim application.

Applicants will receive confirmation of a claim being lodged with the titleholder. If an assessor forms the view that the information lodged with a claim is not sufficient to conduct a meaningful assessment or support the application, then the claimant will be advised in writing and given 14 days to respond to the assessor. If no response is received within 14 days, then the assessment will be completed, and the claimant advised of the outcome.

Claims will be assessed by separate monthly fishing activity, with each month assessment outcome not influencing or impacting on any other month's assessment outcome. This protocol outlines the adjustment processes in a manner to provide consistent assessments over time. However, assessors have the flexibility to make judgements that will enhance the statistical accuracy of an assessment and/or provide balanced practical assessment outcomes.

For fully documented claims that meet the Adjustment Area historical fishing/usage activity requirement, whether successful or not, clerical costs relating to preparing, submitting, and engaging in the adjustment process under this protocol, up to a value of $2,000 per claim, will be reimbursed by the activity's titleholder as part of the claim process. A statement outlining time and resource costs to support an amount up to $2,000 should be included with a claim. Clerical costs that exceed $2,000 may also be included with a claim and reimbursed under this protocol if evidenced by documentation.

3.2 Who can lodge a claim and when?

A commercial fisher who is an affected person who has suffered displacement, a loss of catch, or gear loss or damage whilst operating in and around a petroleum activity Adjustment Area, subject to this protocol can lodge an adjustment claim.

Other commercial marine operators (refer definition), identified during relevant persons consultation during the preparation of the relevant EPs, who suffers displacement whilst operating in and around a petroleum activity Adjustment Area, subject to this protocol can lodge an adjustment claim.

A person so authorised may lodge a claim on behalf of a commercial fisher/marine operator. Claims may be lodged by a person, company, or association on behalf of more than one commercial fisher/marine operator, provided that the required individual usage/catch history is provided and there is evidence of the authority to lodge the claim on behalf of others.

Claims can be submitted up to 6 months after the conclusion of a relevant petroleum activity.

3.3 What information is needed to lodge a claim?

Claimants will need to be able to identify the relevant vessel and licence(s) that are involved in the claim, and to provide evidence of the entity that would have received the revenue that is the subject of a claim. For fishers, a key information requirement when lodging a loss of catch claim will be to either authorise access to the relevant Government catch and effort data or provide the catch and effort data with the application. For other commercial marine operators, the information needed for lodging a claim will have been agreed between the titleholder and the entity that would have received the revenue that is the subject of a claim.

Full details on the information required to be lodged with a claim are contained in the application forms at:

- Appendix 2 – Claim for Loss-of-catch, Displacement, Gear damage and C&E Permission
- Appendix 3 – Statutory declaration for making claim

Each claim should relate to only one petroleum activity and associated titleholder. If a claimant is not sure which titleholder is undertaking the activity the claim may be delayed whilst a claim assessor confirms the correct titleholder.

3.4 Who will assess the claims and what information will be in the report?

Subject to a claim being lodged, the titleholder of a petroleum activity (at their expense) in consultation with the claimant, will engage a suitably experienced/qualified independent person or organisation as the assessor of the claim.

The titleholder is to provide the assessor with a letter of instruction/project brief, which is to be provided to the claimant as part of the assessment report.

An assessment report prepared by an assessor should include the following information:

- a copy of the letter of instruction/project brief received by an assessor when engaged to carry out the independent assessment,
- confirmation (or otherwise) that the information provided in the claim is sufficient to conduct a meaningful assessment,
- a summary of the claim details (activity, applicant, vessel, month(s)),
- for a loss of catch claim, monthly CPUE assessments as outlined in this protocol including an estimation of any loss of catch (in kilograms) and its market price, and
- any other information, comments, or views relevant to the assessment that

the assessor may wish to include.

Upon receiving and considering the assessment report, the titleholder will provide a copy of the report to the claimant and offer to meet with the claimant to discuss/address the claim.

3.5 How long will it take to deal with a claim?

An appropriately documented claim (including relevant catch and effort information) should be assessed, and a report provided to the claimant within 30 days of the lodgement date of the claim. If an assessor is authorised to access catch and effort data, then the 30-day period begins upon receipt of the necessary catch-and-effort data. If an appropriately documented claim report cannot be made available to the claimant within 60 days of a claim being lodged or receipt of catch and effort information as appropriate, and no mutual agreement to extend the time period has been entered into, then the titleholder (at their expense) in consultation with the claimant, shall appoint a suitably experienced/qualified independent person or organisation to provide an expert review of the claim.

Included as part of the settlement of each claim, will be a binding agreement that summarises the claim outcomes and an agreement by the claimant that acceptance of the settlement negates any further claims for the same species and month(s) of that petroleum activity.

3.6 Independent expert review of a claim

If a claimant disagrees with a claim assessment outcome and cannot reach agreement with the titleholder, they may opt to go to an independent expert review (funded by the titleholder of the activity).

If a claim is subject to independent expert review, then as part of that process, both the claimant and the titleholder shall be given the opportunity to address the assessor to state their position, prior to an independent expert review decision being reached.

An independent expert reviewer must provide a view as to whether the claim assessment process has been conducted in line with the requirements of the protocol. The independent expert reviewer may also consider any additional information deemed appropriate by themselves, including information provided by either the claimant or the titleholder. An independent expert review decision is binding on the claimant and the titleholder and may differ from the initial assessment report. A timeline diagram setting out the relevant time frames under this protocol can be found at Appendix 4.

3.7 How long will it take to be paid adjustment?

Once a claimant and titleholder agree with a claim outcome, or an expert reviewer has issued a report, the titleholder will provide monetary adjustment to the claimant as soon as possible and within 30 days.

4 Protocol Review and Maintenance

This protocol will remain in force for the validity period of any accepted EP for any of the titleholders who become members of the OAP, anticipated to be a five-year term from date of acceptance by NOPSEMA. The protocol will be subject to review and update by KSV and the members at least once in each 12-month period. Changes will be considered in consultation with relevant fishing associations (and other stakeholders as appropriate) and subject to agreement by the titleholder members.

The forms in the Appendices will be made available for download through the OMICC Portal, or online forms may be used to submit a claim.

4.1 Revision History

Revision	Date	Notes
0.1	2 February 2024	Creation of document based on the NERA protocol and following consultation inputs from commercial fishing industry consultation in preparation of relevant EPs.
0.2	22 February 2024	Amendments to add other commercial marine operators and prepare for consultation with OMICC founders.
0.3	14 March 2024	Amendments following OMICC founder input and clarifications to scope. Preparation for first legal review by titleholders.
0.4	30 April 2024	Reviewed and updated for distribution and comment.
0.5	29 August 2024	Updated following consultation with commercial fishers.
0.6	18 March 2025	Updated following further consultation with commercial fishers and amendments following OMICC founder input.

Appendix 1: Otway Commercial Marine Operator Adjustment Protocol Members

Founding Members

- CGG Services (Australia) Pty Ltd
- ConocoPhillips Australia SH1 Pty Ltd and ConocoPhillips Australia SH2 Pty Ltd
- Klarite Sustainable Ventures Pty Ltd

Appendix 2: Consent and Confidentiality Form

CATCH & EFFORT and CATCH DISPOSAL RECORDS CONSENT
Records from this year and previous years are needed to support your claim. Please complete the following consent form for lodgement with the appropriate fisheries management agency.

I, (insert name) ……give permission to the Klarite Sustainable Ventures

nominee to have access to my (insert fishery) ……. catch and effort records at

(fisheries management agency) ……..

I affirm that the fishing cooperatives listed below (leave blank if not applicable):

(insert fishing cooperative) …… receive (insert percentage) ……% of my landed catch.

(insert fishing cooperative) …… receive (insert percentage) ……% of my landed catch.

(insert fishing cooperative) …… receive (insert percentage) ……% of my landed catch.

I, (insert name) …… do:

(a) Certify that the details and particulars in this application are true to the best of my knowledge, information, and belief; and

(b) Acknowledge that the making of a false statement is unlawful and open to prosecution.

Signed: …….. Date: ……..

Appendix 3: Displacement Application Form

Commercial Fishing Industry Adjustment Protocol - Application Form for Displacement Claim

Application Form - Commercial Marine Operator Adjustment Protocol - Displacement	
Activity Details	
Petroleum activity name	
Activity titleholder	
Claimant Details	
Name of person/company making claim	
Address	
Email	
Contact number	
I am the entity that would have received the revenue from the catch that is the subject of this claim. Please include evidence of above statement	Yes or No
Relevant authorisation holder details (if different from claimant)	
Name	
Address	
Email	
Contact number	
Authorisation/licence(s) name and number	
Claim details	
Evidence of the additional distance, fuel and crew costs incurred by the relocation of the fishing/other marine operation.	Attach receipts/evidence of costs for claim month. Include vessel track data, fuel receipts, transit time, distance travelled etc.
Evidence of previous year daily (at sea) average distance, fuel and crew costs	Attach receipts/evidence of costs for previous year.

Application Form - Commercial Marine Operator Adjustment Protocol - Displacement
Include five years catch data preceding the year of the claim in the following form: • Vessel • Year • Month • Fishery • Fishing event location/blocks fished provided at the highest available block resolution. • Whole weight calculated based on the reported landed weight and listing any relevant conversion factor(s). For other commercial marine operators, include five years historical area usage data preceding the year of the claim in the following form: • Vessel • Year • Month • Location provided at the highest available resolution. Note 5 years of data is required for displacement purposes to show recent operational history has occurred within an Adjustment Area. If less than 5 years data available, then claim assessor should evaluate appropriate method of assessment.
Please list the documents provided with your application
1.
2.
3.
4.

Appendix 4: Loss of Catch Application Form

Commercial Fishing Industry Adjustment Protocol - Application Form for Loss of Catch claim

Application Form - Commercial Marine Operators Adjustment Protocol - Loss of Catch	
Activity Details	
Petroleum activity name	
Activity titleholder	
Claimant Details	
Name of person/company making claim	
Address	
Email	
Contact number	
I am the entity that would have received the revenue from the catch that is the subject of this claim. Please include evidence of above statement	Yes or No
I wish to authorise direct access to my catch and effort history relevant to this application.	Yes/No (If yes then authorisation holder to sign here)
Relevant authorisation holder details (if different from claimant)	
Name	
Address	
Email	
Contact number	
Authorisation/licence(s) name and number	
Claim details	
Months for which loss of catch adjustment is being claimed	

<table>
<tr><td colspan="2">Application Form - Commercial Marine Operators Adjustment Protocol - Loss of Catch</td></tr>
<tr><td colspan="2">Market price information – please include documentary evidence of price received from normal buyer/processor for catch relevant to loss of catch claim.</td></tr>
<tr><td>Catch and effort information for blocks/area by month by species for which loss of catch is being claimed plus previous 10 years. If 10 years Government catch history is not available and/or or you wish to provide your own validated catch history, please indicate here.</td><td>Indicate whether Government or own catch and effort data is being provided and number of previous years of data available.</td></tr>
<tr><td colspan="2">NOTE: If any information is not available from Government and fishers own catch data is being submitted, then copies of the relevant statutory catch and effort fishing returns should be submitted with the claim.</td></tr>
<tr><td colspan="2">Catch and effort information should be provided in the form of:
Vessel
Year
Month
Fishery
Blocks fished provided at the highest (e.g., 10x10nm) available block resolution, or fishing event locations (by latitude and longitude).
Block days including fishing events in identified area/blocks per month.
Fishing hours (in decimal hours) showing the duration of each fishing event at highest available block/fishing event resolution.
Whole weight calculated based on the reported landed weight and listing the relevant conversion factor(s) if applicable.</td></tr>
<tr><td colspan="2">Other relevant information may be submitted with a claim and will be assessed on a case by case basis. Questions regarding the claim process may be directed to a person nominated by the titleholder.</td></tr>
<tr><td colspan="2">Please list the documents provided with your application</td></tr>
<tr><td colspan="2">1.</td></tr>
<tr><td colspan="2">2.</td></tr>
<tr><td colspan="2">3.</td></tr>
<tr><td colspan="2">4.</td></tr>
</table>

Appendix 5: Fishing Gear Loss or Damage Application Form

Application Form - Commercial Marine Operators Adjustment Protocol – Fishing gear loss or damage	
Activity Details	
Activity name	
Activity titleholder	
Claimant Details	
Name of person/company making claim	
Address	
Email	
Contact number	
I am the entity that has incurred the costs of the lost or damaged fishing gear that is the subject of this claim. If claiming for loss of catch, I am the entity that would have received the revenue from the catch that is the subject of this claim. Please include evidence of above statements.	Yes or No and supporting information.
I wish to authorise direct access to my catch and effort history relevant to this application.	Yes/No (If yes then authorisation holder to sign here)
Relevant authorisation holder details (if different from claimant)	
Name	
Address	
Email	
Contact number	
Authorisation/licence(s) name and number	
Claim details	
Evidence of notification to the titleholder of the gear loss and/or damage incident.	
Information describing when, where, and how the gear damage and/or loss occurred.	
Where possible, the name and details of vessel(s) involved in the incident.	

A claim should include a quote (two where possible) with costs associated with repairing or replacing the lost or damaged fishing gear.	
Estimate of any proportionate loss of catch including market price, plus catch and effort information sufficient to calculate CPUE for claim month or same month in previous year.	
Please list the documents provided with your application	
1.	
2.	
3.	
4.	

Appendix 6: Adjustment Protocol Timeframes

The titleholder will provide 28-day notice of a future Adjustment Area including a map and coordinates.

The titleholder will provide notice of activity start and activity end through the OMICC portal and any other communications methods specified in the associated accepted Environment Plan.

The Claim Period:

1. A claim can be made from the starting date of the activity.
2. A claim can be made once per month for the whole month, or part thereof.
3. A claim can be made for evidence-based losses up to 30 days after the end date of the activity.

The Lodgement Period:

1. All claims must be lodged within 183 days (6 months) after the end of an activity.

Timeframes for processing a claim:

1. Claims to be finalised within 60 days of being lodged, or receipt of catch and effort information, unless mutual agreement reached between claimant and titleholder to extend time frame.
2. If agreement cannot be reached between the titleholder and claimant within the prescribed times above then the titleholder, in consultation with the claimant, must appoint an independent expert reviewer to decide the claim.
3. Subject to an independent expert review decision, the titleholder shall settle the claim in accordance with the decision within 60 days.

Appendix 7: Legislation Section 603

Offshore Petroleum and Greenhouse Gas Storage Act 2006
No. 14, 2006

Compilation No. 54
Compilation date: 18 October 2023
Includes amendments up to: Act No. 74, 2023
Registered: 21 October 2023

603 Interfering with offshore petroleum installations or operations

(1) A person commits an offence if:

(a) the person engages in conduct; and

(b) the person's conduct results in:

(i) damage to, or interference with, any structure or vessel that is in an offshore area and that is, or is to be, used in exploring for, recovering, processing, storing, preparing for transport, or transporting, petroleum; or

(ii) damage to, or interference with, any equipment on, or attached to, such a structure or vessel; or

(iii) interference with any operations or activities being carried out, or any works being executed, on, by means of, or in connection with, such a structure or vessel.

Penalty: Imprisonment for 10 years.