



Fisheries Management (Continuation of Activities in the Lowland Darling River Catchment) Interim Order 2003

under the

Fisheries Management Act 1994

I, the Minister for Fisheries, in pursuance of section 221IG of the *Fisheries Management Act 1994*, make the following Order.

Dated, this 4th day of July 2003.

IAN MICHAEL MACDONALD, M.L.C.,

Minister for Fisheries

Explanatory note

The object of this Order is to enable certain recreational and commercial fishing activities in the aquatic ecological community in the natural drainage system of the lowland catchment of the Darling River to continue for 6 months, following the listing of that ecological community as an endangered ecological community under the *Fisheries Management Act 1994 (the Act)*.

One of the effects of listing the ecological community as an endangered ecological community is that it is an offence against Division 4 of Part 7A of the Act to harm any fish or marine vegetation of that ecological community, or to do anything that causes damage to habitat of that ecological community (*a Part 7A offence*). However, under section 220ZF of the Act, it is a defence to a prosecution for such an offence if the act constituting the offence was authorised by, and was done in accordance with, an interim order under section 221IG.

The authorisation of recreational and commercial fishing activities by this Order is subject to the condition that the fisher concerned comply with any other applicable provisions under the Act (such as those relating to bag limits and fishing closures). Accordingly, a fisher who in carrying out an activity authorised by this Order, commits a Part 7A offence, will not be able to rely on the defence that this Order would otherwise provide, if the fisher fails to comply with those other provisions.

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Explanatory note

The recommendation of the Fisheries Scientific Committee referred to in this Order is available for inspection at all NSW Fisheries Offices and on the Fisheries Scientific Committee website at www.fisheries.nsw.gov.au/fsc/recomend.htm.

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1 Name of Order

This Order is the *Fisheries Management (Continuation of Activities in the Lowland Darling River Catchment) Interim Order 2003*.

2 Commencement and duration

This Order:

- (a) takes effect on the day that it is published in the Gazette, and
- (b) ceases to have effect 6 months after that day.

3 Continuation of existing activities

- (1) The activities referred to in subclauses (2) and (3) may continue in the Lowland Darling River Catchment subject to compliance with any applicable fishing regulatory controls.
- (2) A recreational fisher may take from the Lowland Darling River Catchment any of the following species of fish, may possess any such species of fish taken from the Lowland Darling River Catchment, or may carry out any routine activity in connection with any such taking or possession:
 - (a) *Paratya australiensis* (freshwater shrimp),
 - (b) *Macrobrachium australiense* (freshwater prawn),
 - (c) *Caridina mccullochi* (freshwater shrimp),
 - (d) *Cherax destructor* (yabby),
 - (e) *Tandanus tandanus* (freshwater catfish),
 - (f) *Gadopsis marmoratus* (river blackfish),
 - (g) *Maccullochella peelii peelii* (Murray cod),
 - (h) *Macquaria ambigua* (golden perch),
 - (i) *Bidyanus bidyanus* (silver perch),
 - (j) *Nematalosa erebi* (bony bream),

- (k) *Lelopotherapon unicolor* (spangled perch).
- (3) A person holding a commercial fishing licence that has a Class A: Yabby and carp endorsement (transferable) in the inland restricted fishery may:
- (a) take *Cherax destructor* (yabby) from the Lowland Darling River Catchment, or
 - (b) possess or sell yabby taken from the Lowland Darling River Catchment, or
 - (c) carry out any routine activities in connection with any such taking, possession or sale.

- (4) In this clause:

applicable fishing regulatory controls means requirements imposed by or under the *Fisheries Management Act 1994* that apply to or in respect of the activities concerned.

inland restricted fishery has the same meaning as in the *Fisheries Management (General) Regulation 2002*.

Lowland Darling River Catchment means the aquatic ecological community in the natural drainage system of the lowland catchment of the Darling River (described in the recommendation of the Fisheries Scientific Committee to list that aquatic ecological community, as the area covered by that recommendation).