



New South Wales

Fisheries Management (Estuary Prawn Trawl Share Management Plan) Regulation 2006

under the

Fisheries Management Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

IAN MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The object of this Regulation is to give effect to a share management plan for the estuary prawn trawl share management fishery.

The share management plan provides for the following matters:

- (a) objectives of the plan,
- (b) description of the fishery,
- (c) minimum and maximum shareholdings,
- (d) species that may be taken,
- (e) trawl seasons and operating hours,
- (f) general requirements in relation to taking fish,
- (g) other miscellaneous matters, including the adoption of the supporting plan.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 24, 40, 57, 60 and 289 (the general regulation-making power) and the sections mentioned in the plan.

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Fisheries Management (Estuary Prawn Trawl Share Management Plan) Regulation 2006

under the

Fisheries Management Act 1994

1 Name of Regulation

This Regulation is the *Fisheries Management (Estuary Prawn Trawl Share Management Plan) Regulation 2006*.

2 Commencement

This Regulation commences on 5 February 2007.

3 Estuary Prawn Trawl Share Management Plan

The *Estuary Prawn Trawl Share Management Plan* set out in the Appendix to this Regulation has effect.

Appendix

(Clause 3)

Part 1 Preliminary

1 Name of Plan

This is the *Estuary Prawn Trawl Share Management Plan*.

2 Definitions

(1) In this Plan:

by-product species has the meaning given by clause 12.

endorsement means an endorsement on a commercial fishing licence that authorises the taking of fish in the fishery.

endorsement holder means a person who holds a commercial fishing licence that has an endorsement.

estuary prawn trawl fishing business means a fishing business the components of which include shares in the fishery.

fishery means the estuary prawn trawl fishery (as described in Schedule 1 to the Act).

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

target species has the meaning given by clause 11.

the Act means the *Fisheries Management Act 1994*.

(2) In this Plan, a reference to an area of the fishery is a reference to an area described in clause 4.

(3) Notes in this Plan do not form part of the Plan.

Part 2 Objectives of Plan

3 Objectives, performance indicators and triggers for review

(1) The objectives of this Plan are set out in Column 1 of the Table to this clause.

(2) For the purposes of section 57 (2) (a) of the Act, the performance indicator in relation to each objective of this Plan is set out in Column 2 of the Table to this clause next to the objective concerned.

(3) For the purposes of section 57 (2) (b) of the Act, a review of this Plan is required in the circumstances provided for in Column 3 of the Table to this clause next to the objective and performance indicator concerned.

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Table

	Column 1	Column 2	Column 3
	Objective	Performance indicator	Trigger for review
1	Contribute, in conjunction with other fishing regulatory controls (as defined in section 7A of the Act), to managing the impacts of the fishery on the environment and to ensuring ecologically sustainable development	Reduction in the estimated quantity of the estuary prawn trawl catch (by method) which is discarded	The Director-General is satisfied that the estimated quantity of discards for any observed estuary increases between consecutive observer surveys
		No new target species or by-product species with an exploitation status is classified as “overfished” or “recruitment overfished” by the Department	On the basis of resource assessment frameworks approved by the Director-General, the exploitation status of a target species or by-product species is changed to “overfished” or “recruitment overfished” by the Department
		Total annual landings of each by-product species as a ratio of the total annual landings of target species in each estuary in the fishery remains within the limits specified in the fishery management strategy	In the opinion of the Director-General, the ratio of the landings of any by-product species to total landings of target species exceeds the limits specified in the fishery management strategy in any 2 consecutive years

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Column 1	Column 2	Column 3
Objective	Performance indicator	Trigger for review
	No interactions between the fishery and any threatened species, population or ecological community that are likely to threaten the survival of a species, population or ecological community	Any interaction between the fishery and any threatened species, population or ecological community reported by endorsement holders in the fishery or observed during an observer survey that is likely to threaten the survival of a threatened species, population or ecological community, as determined by the Director-General on advice from relevant experts
	No interactions between the fishery and protected fish that are likely to threaten the survival of protected fish	On a biennial review undertaken by the Department of interactions between the fishery and protected fish reported by endorsement holders in the fishery or observed during an observer survey, the Director-General, on advice from relevant experts, determines that the level of these reported interactions is likely to threaten the survival of the protected fish

	Column 1	Column 2	Column 3
	Objective	Performance indicator	Trigger for review
2	Contribute, in conjunction with other fishing regulatory controls (as defined in section 7A of the Act), to promoting viable commercial fishing	There are net returns to the fishery	The Director-General is satisfied that the gross value of production of the fishery has not exceeded the sum of indicative industry operational costs and government management costs relevant to the fishery for 3 consecutive years

Part 3 Description of fishery

Note. The fishery is described in Schedule 1 to the Act as consisting of the use of an otter trawl net (prawns) to take fish from estuarine waters. Estuarine waters do not include the waters of Port Jackson.

4 Areas of fishery

- (1) For the purposes of this Plan, the fishery is divided into 3 areas, as follows:
 - (a) the Clarence River (which includes Lake Wooloweyah),
 - (b) the Hunter River,
 - (c) the Hawkesbury River.
- (2) Schedule 1 has effect.

Note. Schedule 1 describes more precisely the waters of the Clarence River, Lake Wooloweyah, the Hunter River, and the Hawkesbury River.

5 Classes of share

The following classes of share are available in the fishery:

- (a) Estuary prawn trawl—Clarence River shares,
- (b) Estuary prawn trawl—Hunter River shares,
- (c) Estuary prawn trawl—Hawkesbury River shares.

Note. Each class of shares corresponds to an area of the fishery and to the types of endorsements available in the fishery.

6 Types of endorsement

(1) There are 3 types of endorsements available in the fishery, as follows:

- (a) Clarence River endorsement,
- (b) Hunter River endorsement,
- (c) Hawkesbury River endorsement.

(2) **Clarence River endorsement**

A Clarence River endorsement authorises the holder to take fish using an otter trawl net (prawns) from the waters of the Clarence River, including Lake Wooloweyah.

(3) Only shareholders who hold estuary prawn trawl—Clarence River shares are eligible to be given, or to nominate a person to be given, a Clarence River endorsement.

(4) **Hunter River endorsement**

A Hunter River endorsement authorises the holder to take fish using an otter trawl net (prawns) from the waters of the Hunter River.

(5) Only shareholders who hold estuary prawn trawl—Hunter River shares are eligible to be given, or to nominate a person to be given, a Hunter River endorsement.

(6) **Hawkesbury River endorsement**

A Hawkesbury River endorsement authorises the holder to take fish using an otter trawl net (prawns) from the waters of the Hawkesbury River.

(7) Only shareholders who hold estuary prawn trawl—Hawkesbury River shares are eligible to be given, or to nominate a person to be given, a Hawkesbury River endorsement.

Part 4 Minimum and maximum shareholdings

7 Minimum shareholding

(1) For the purpose of section 67 (1) of the Act, the minimum shareholding in relation to a class of shares specified in the Table to this clause is, subject to subclause (2), the number of shares of that class specified in the Table next to the class concerned.

Note. A person who does not hold the minimum shareholding required for a class of shares will not be eligible to be given, or to nominate another person to be given, an endorsement that authorises the taking of fish in respect of shares of that class. See sections 68 (3) (b) and 69 (2) of the Act.

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- (2) The minimum shareholding in relation to a class of shares is, if the shareholder is an original entitlement holder in relation to that class of shares, 1 share of that class.
 - (3) Subclause (2) ceases to apply in respect of a class of shares held by a shareholder if the shareholder transfers, assigns, forfeits or surrenders any shares of that class after the commencement of this Plan (in which case subclause (1) applies to the shareholder).
 - (4) For the purposes of this clause, an *original entitlement holder*, in relation to a class of shares, is a person who:
 - (a) held shares of that class immediately before the commencement of this Plan, and
 - (b) was, immediately before the commencement of this Plan, eligible for an endorsement in the fishery (or to nominate a person to be given an endorsement in the fishery) on the basis of that shareholding.
 - (5) A person who is issued with shares of a class as a consequence of a decision of the Share Appeal Panel on an appeal in relation to the issue of shares in the fishery and who would have been entitled to an endorsement in the fishery, or to nominate a person to be given an endorsement, if those shares had been issued before the commencement of this Plan, is taken to be an original entitlement holder in relation to that class of shares.
 - (6) The shares relied on to meet the minimum shareholding requirement must all be a component of the same estuary prawn trawl fishing business.

Table

Class of shares	Minimum shareholding
Estuary prawn trawl—Clarence River shares	150
Estuary prawn trawl—Hunter River shares	100
Estuary prawn trawl—Hawkesbury River shares	150

8 Maximum shareholding

For the purpose of section 72 (1) of the Act, the maximum shareholding is 40% of the total number of shares in the fishery at the commencement of this Plan.

Part 5 Species that may be taken

9 Only target species and by-product species may be taken

- (1) An endorsement holder must not use an otter trawl net (prawns) to take fish in an area of the fishery unless the fish taken is a target species for that area or a by-product species for that area.
- (2) For the purposes of section 24 of the Act, it is unlawful to use an otter trawl net (prawns) to take fish in an area of the fishery in contravention of this clause.

10 By-product species may be taken only when attempting to take target species

- (1) An endorsement holder must not use an otter trawl net (prawns) to take any by-product species of fish in an area of the fishery except while using the net to take a target species of fish for that area.
- (2) For the purposes of section 24 of the Act, it is unlawful to use an otter trawl net (prawns) to take fish in an area of the fishery in contravention of this clause.

11 Target species

For the purposes of this Plan, a *target species* of fish, in relation to an area of the fishery specified in Column 1 of the Table to this clause, is a species of fish listed next to that area in Column 2 of the Table.

Table

Area	Target species
Clarence River	School prawn (<i>Metapenaeus macleayi</i>)
Hunter River	School prawn (<i>Metapenaeus macleayi</i>) Eastern king prawn (<i>Melicertus plebejus</i>)
Hawkesbury River	School prawn (<i>Metapenaeus macleayi</i>) Eastern king prawn (<i>Melicertus plebejus</i>) Broad squid (<i>Photololigo etheridgei</i>) Slender squid (<i>Loligo sp.</i>) Bottle squid (<i>Loliolus noctiluca</i>) Bubble squid (<i>Eupyrnna stenodactyla</i>) Candy striped squid (<i>Sepioloidea lineolate</i>)

12 By-product species

For the purposes of this Plan, a *by-product species* of fish, in relation to an area of the fishery specified in Column 1 of the Table to this clause, is a species of fish listed next to that area in Column 2 of the Table.

Table

Area	By-product species
Clarence River	Eastern king prawn (<i>Melicertus plebejus</i>) Greasyback prawn (<i>Metapenaeus bennettiae</i>) Tiger prawn (<i>Penaeus esculentus</i>) Trumpeter whiting (<i>Sillago maculata</i>) Silverbidly (<i>Gerres subfasciatus</i>) Fork-tailed catfish (<i>Arius</i> spp.) Estuary catfish (<i>Cnidoglanis macrecephalus</i>) Striped catfish (<i>Plotosus lineatus</i>) Blue swimmer crab (<i>Portunus pelagicus</i>) Mud crab (<i>Scylla serrata</i>) Arrow squid (<i>Notodarus gouldi</i>) Broad squid (<i>Photololigo etheridgei</i>) Slender squid (<i>Loligo</i> sp.)
Hunter River	Greasyback prawn (<i>Metapenaeus bennettiae</i>) Tiger prawn (<i>Penaeus esculentus</i>) Arrow squid (<i>Notodarus gouldi</i>) Broad squid (<i>Photololigo etheridgei</i>) Slender squid (<i>Loligo</i> sp.) Bottle squid (<i>Loliolus noctiluca</i>)
Hawkesbury River	Greasyback prawn (<i>Metapenaeus bennettiae</i>) Tiger prawn (<i>Penaeus esculentus</i>) Trumpeter whiting (<i>Sillago maculata</i>) Large-toothed flounder (<i>Pseudorhombus arsius</i>) Small-toothed flounder (<i>Pseudorhombus henynsii</i>) Black sole (<i>Brachirus nigra</i>) Silverbidly (<i>Gerres subfasciatus</i>) Striped grunter (<i>Pelates quadrilineatus</i>) Whitebait spp. (Family: CLUPAIDAE)

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Area	By-product species
	Fork-tailed catfish (<i>Arius</i> spp.)
	Striped catfish (<i>Plotosus lineatus</i>)
	Bullseye spp. (Family: PEMPHERIDIDAE)
	Hairtail (<i>Trichiurus lepturus</i>)
	Yellowtail scad (<i>Trachurus novaezelandiae</i>)
	Blue swimmer crab (<i>Portunus pelagicus</i>)
	Mud crab (<i>Scylla serrata</i>)
	Octopus spp. (Family: OCTOPODIDAE)
	Mantis shrimp (<i>Erugosquilla grahmi</i>)
	Mantis shrimp (<i>Harpiosquilla harpex</i>)

Part 6 Trawl seasons and operating hours

13 Trawling not permitted outside trawl season or operating hours

- (1) An endorsement holder must not use an otter trawl net (prawns) to take fish in an area of a fishery outside of the trawl season for that area, or outside the operating hours for that area, as set out in this Part.
- (2) For the purposes of section 24 of the Act, it is unlawful to use an otter trawl net (prawns) to take fish in an area of the fishery in contravention of this clause.

14 Clarence River (except Lake Wooloweyah) trawl season and operating hours

- (1) The trawl season for the Clarence River area commences on the Monday nearest to 1 December each year, and finishes on the Friday nearest to 14 June in each succeeding year.
- (2) The operating hours for the Clarence River area are from 8am to 6pm on Mondays, and from 7am to 6pm on each of the days from Tuesday to Friday (inclusive), excluding public holidays.
- (3) This clause does not apply to the part of the Clarence River area that consists of Lake Wooloweyah.

15 Lake Wooloweyah trawl season and operating hours

- (1) The trawl season for the part of the Clarence River area that consists of the waters of Lake Wooloweyah commences on the first Tuesday on or after 1 October each year, and finishes on the Friday nearest to 14 June in each succeeding year.

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- (2) The operating hours for the part of the Clarence River area that consists of the waters of Lake Wooloweyah are from 8am to 6pm on Mondays, and from 7am to 6pm on each of the days from Tuesday to Friday (inclusive), excluding public holidays.

16 Hunter River trawl season and operating hours

- (1) The trawl season for the Hunter River area commences on the first Monday on or after 1 December each year, and finishes on the last Friday in May each succeeding year.
- (2) The operating hours for the Hunter River area are from 6am to 6pm, Monday to Friday, excluding public holidays.

17 Hawkesbury River trawl season and operating hours

- (1) The trawl season for the Hawkesbury River area commences on 1 July each year and finishes on 30 June in each succeeding year.
- (2) The operating hours for the Hawkesbury River area are, in relation to the waters specified in Column 2 of the Table to this clause, the hours of operation specified in Column 3.

Table

Name	General description of waters	Hours of operation
Broken Bay	The waters downstream of a line drawn from the south-eastern most corner of Juno Point to the north-eastern most corner of Eleanor Bluff that are not closed to trawling under a closure referred to in clause 21.	From midnight Sunday to midnight Friday in each week, excluding public holidays

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Name	General description of waters	Hours of operation
Juno Point upstream to the vehicular ferry at Lower Portland	The waters from a line drawn across the river from the south eastern most corner of Juno Point to the north eastern most corner of Eleanor Bluff, upstream to the vehicular ferry at Lower Portland (including Mooney Mooney Creek and Mangrove Creek), that are not closed to trawling under a closure referred to in clause 21.	From midnight Sunday to 6pm Friday in each week, excluding public holidays.
Marramarra Creek and Coba Bay	The waters of Marramarra Creek and Coba Bay, upstream (ie west) from a line drawn from the south-eastern extremity of Murrion Point to the south-western extremity of Morgan Point and then to the north-eastern extremity of the entrance to Coba Bay.	From sunrise to sunset in each of the days from Monday to Thursday (inclusive) and from sunrise to 6pm Friday in each week, excluding public holidays.

Part 7 General requirements in relation to taking fish**18 Boat capacity restrictions**

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

Table

Column 1	Column 2
Maximum boat length	Exemption code
10 metres	EPT

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- (2) Subclause (1) does not apply in respect of an original boat if:
 - (a) it is exempted from the maximum boat length requirement in accordance with an exemption criteria determined by the Director-General, and
 - (b) that exemption is noted on the fishing boat licence for the boat by the Minister using a code of a kind specified in Column 2 of the Table to this clause.
- (3) In this clause, an *original boat* means a boat that, immediately before the commencement of this Plan, was a component of an estuary prawn trawl fishing business.
- (4) For the purposes of this clause, the length of a boat is the length noted on the fishing boat licence for that boat.

19 Possession of fishing gear in Clarence River area outside of operating hours

- (1) For the purposes of section 68 (6A) of the Act, it is a condition of a Clarence River endorsement that the endorsement holder is not in possession of an otter trawl net (prawns) in, on or adjacent to the waters in the Clarence River area (including Lake Wooloweyah) except during the operating hours for that area, or the part of the area concerned.
- (2) This clause does not prevent an endorsement holder from being in possession of an otter trawl net (prawns) in, on or adjacent to the waters in the Clarence River area (including Lake Wooloweyah) on any day during the trawl season for the area or part of the area concerned up to 1 hour before the start of the operating hours for the area or part of the area concerned if:
 - (a) the endorsement holder is travelling to a preferred fishing site and is not actually taking fish, and
 - (b) all parts of the otter trawl net (prawns) remain onboard the boat.

20 Discarding fish in Hunter River area

For the purposes of section 68 (6A) of the Act, it is a condition of a Hunter River endorsement that any fish taken in an otter trawl net (prawns) that are to be discarded:

- (a) are held by the endorsement holder in a holding tank or swim tub to keep them alive prior to release, and
- (b) are released below the surface of the water by the endorsement holder by use of a plastic tube with a diameter of at least 150 millimetres.

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21 Waters permanently closed to commercial fishing

Pursuant to section 20 (2) of the Act, it is declared that the waters specified in Tables 1 and 2 of Schedule 2 are waters in which the class of commercial fishing that consists of the taking of fish by commercial fishers in the fishery is prohibited.

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

Part 8 General

22 Adoption of Supporting Plan

For the purposes of section 57A (5) of the Act, the provisions of the Supporting Plan, as they relate to the fishery, and as in force from time to time, are adopted by this Plan.

23 Authorised amendments to Plan

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

Schedule 1 Areas of fishery

(Clause 4)

1 Clarence River

For the purposes of this Plan, the Clarence River consists of all waters from the confluence of the Clarence River and the South Pacific Ocean (ie the eastern most extremity of the breakwalls), upstream to the vehicular ferry at Ulmarra, and including the waters of Lake Wooloweyah.

2 Lake Wooloweyah

For the purpose of this Plan, Lake Wooloweyah includes all waters of Lake Wooloweyah. The boundary between Lake Wooloweyah and Oyster Channel is determined by a line drawn from the south eastern extremity of Joss Island to the eastern extremity of Corokos Island, and the boundary between Lake Wooloweyah and Palmer's Channel is determined by a line drawn from the southern most extremity of the eastern and western banks of Palmer's Channel where it meets Lake Wooloweyah.

3 Hunter River

For the purposes of this Plan, the Hunter River includes all waters from a line drawn south-westerly from the boat ramp adjacent to Punt Road, Stockton, to the eastern extremity of the State Dockyard (Dyke Point), upstream to its junction with the Williams River.

4 Hawkesbury River

For the purposes of this Plan, the Hawkesbury River includes all waters from the confluence of the Hawkesbury River and the South Pacific Ocean (ie a line drawn from the southern extremity of Box Head to the Northern Extremity of Barrenjoey Headland), upstream to the vehicular ferry at Lower Portland.

Schedule 2 Waters permanently closed to fishing

(Clause 21)

1 Clarence River

Table 1

Column 1	Column 2
Name	Waters
Upper Oyster Channel	The whole of the waters of Oyster Channel from (the Oyster Channel recreational fishing haven) a line between the Department marker post RFH3 beneath the second set of powerlines crossing Oyster Channel, located approximately 420 metres upstream of the Oyster Channel Road Bridge, and the Department marker post RFH4 on the shore of Micalo Island, upstream to a line drawn from the south eastern extremity of Joss Island to the eastern extremity of Corokos Island.
Crystal Bay	The whole of the waters of Crystal Bay south and east of a line drawn from the centre of the turning circle of Westringa Place to the northern most point of Witonga Drive.

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Column 1	Column 2
Name	Waters
Yamba Bay	The whole of the waters of Yamba Bay enclosed by a line drawn from the NSW Maritime Authority Front Lead Beacon No 122 at mean high water mark on the northern side of Hickey Island, then northwesterly to the NSW Maritime Authority Navigation Aid No 097 located on the downstream side of the most easterly opening in Middle Wall (the south western boundary of the Middle Wall recreational fishing haven), then north west along Middle Wall to the south eastern most point on Freeburn Island, then transecting the remnants of the old viaduct on Rabbit Island directly onto the Public Reserve at Shores Drive, then generally south east along the high mean tide mark (past Yamba Marina and along the southern side of Hickey Island) to the point of commencement.
Broadwater	The whole of the waters of the Broadwater north and north west of a line drawn from a post marked FD1 on the foreshore of Emerald's Point generally west to a post marked FD2 located on Neddy's Point.
Sportsman's Creek	The whole of the waters of Sportsman's Creek together with its creeks, tributaries and inlets from the weir above Lawrence upstream to its source.
Esk River	The whole of the waters of the Esk River.

2 Hawkesbury River**Table 2**

Column 1	Column 2
Name	Waters
Pittwater	The whole of the waters of Pittwater south of a line drawn from Shark (or Warners) Rock to the north eastern corner of West Head.
Brisbane Waters and Broken Bay	The whole of the waters of Brisbane Waters and its tributaries and the waters of Broken Bay north of a line drawn from Little Box Head to Green Point.

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Column 1	Column 2
Name	Waters
Patonga Creek	The whole of the waters of Patonga Creek upstream of its confluence with the Hawkesbury River, being a line drawn north easterly from the easternmost foreshore corner of Oyster Farm no 59-30 (section 2), on the western foreshore, to the southernmost extremity of the reserve on the opposite foreshore.
Cowan Creek, Smiths Creek, Coal and Candle Creek, Jerusalem Bay and America Bay	The whole of the waters of Cowan Creek and Smiths Creek south west of a line drawn between the north eastern most corner of Eleanor Bluffs and the north western most corner of Challenger Head adjacent to the Port Hand navigation marker on Challenger Head.
Dangar Island, Brooklyn	The whole of the waters from a line drawn from the most westerly point of Croppy Point to the most northerly point of Green Point, upstream to the rail bridge at Brooklyn.
Berowra Creek	The whole of the waters of Berowra Creek upstream of a line from the most south westerly point of Morgan Point to the north eastern point of Coba Point.
Mangrove Creek	The whole of the waters upstream of the Oyster Shell Road Bridge over Mangrove Creek.
Macdonald River	The whole of the waters of Macdonald River.
Webbs Creek	The whole of the waters of Webbs Creek.
Colo River	The whole of the waters of the Colo River upstream of the West Portland Road Bridge approximately 250 metres from its junction with the Hawkesbury River.
