



New South Wales

Fisheries Management Legislation Amendment Regulation 2021

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*.

ADAM MARSHALL, MP
Minister for Agriculture and Western New South Wales

Explanatory note

The objects of this Regulation are as follows—

- (a) to amend the *Fisheries Management (General) Regulation 2019*, including—
 - (i) to update the species of fish and waters that are protected from recreational fishing, and
 - (ii) to prohibit the possession of live Murray cod, and the release of live Murray cod, in or near certain inland waters in northeastern New South Wales,
- (b) to amend the *Fisheries Management (Aquaculture) Regulation 2017*, including—
 - (i) to enable the Minister for Agriculture and Western New South Wales to refuse to issue an aquaculture permit if the applicant has previously held an aquaculture permit that has been suspended or cancelled, and
 - (ii) to further provide for the procedures for the partial surrender, consolidation and subdivision of aquaculture leases,
- (c) to make other law revision amendments to the following regulations—
 - (i) *Fisheries Management (Abalone Share Management Plan) Regulation 2000*,
 - (ii) *Fisheries Management (Estuary General Share Management Plan) Regulation 2006*,
 - (iii) *Fisheries Management (Lobster Share Management Plan) Regulation 2000*,
 - (iv) *Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006*,
 - (v) *Fisheries Management (Ocean Trap and Line Share Management Plan) Regulation 2006*,
 - (vi) *Fisheries Management (Ocean Trawl Share Management Plan) Regulation 2006*,
 - (vii) *Fisheries Management (Supporting Plan) Regulation 2006*.

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1 Name of Regulation

This Regulation is the *Fisheries Management Legislation Amendment Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Fisheries Management (General) Regulation 2019

[1] **Clause 3 Definitions**

Insert in alphabetical order in clause 3(1)—

backed up waters, in relation to a dam or impoundment, means water that has flowed into the dam or impoundment from another waterway and has ceased flowing.

[2] **Clause 14 Protected fish**

Omit the matter relating to Queensland Groper, Giant Queensland Groper from Table 2.

[3] **Part 14, Division 5, heading**

Omit the heading. Insert instead.

Division 5 Miscellaneous

[4] **Clause 246A**

Insert after clause 246—

246A Possession of live Murray cod prohibited in certain parts of northeastern NSW—the Act, s 220ZE

(1) A person must not be in possession of live Murray cod when the person is in, on or adjacent to relevant waters.

(2) A person must not release live Murray cod into relevant waters.

Note. See also the Act, section 216, which prohibits the release of live fish in certain circumstances.

(3) In this clause—

Murray cod means fish of the species *Maccullochella peelii*.

release a fish includes deposit or permit the fish to escape.

relevant waters means all inland waters north of Waterfall Way between Urunga and Armidale that are east of the Great Dividing Range and includes a farm dam, within the meaning of the Act, section 198A.

Maximum penalty—100 penalty units for a corporation or 50 penalty units for an individual.

[5] **Schedule 3 Fish and waters protected from recreational fishing**

Omit clauses 6, 78, 95, 96, 153, 155, 161, 162, 164–167, 171–174, 178, 179, 186, 187, 223, 224, 226 and 227.

[6] **Schedule 3, clause 40(1)**

Insert “Canal” after “Forster Keys”.

[7] **Schedule 3, clause 40(1)**

Omit “across the entrance to Wyuna Canal”.

Insert instead “from the southwest corner of Lot No 7026 Kenrose Street to the northwest corner of Lot No 7142 Wyuna Place”.

- [8] **Schedule 3, clause 94, heading**
Omit “**Boatshed**”. Insert instead “**Lane Cove Weir**”.
- [9] **Schedule 3, clause 94(1)**
Omit “a line drawn from a post at the boatshed to a post on the opposite bank”.
Insert instead “the Lane Cove Weir”.
- [10] **Schedule 3, clause 145**
Omit clause 145(1) and (2). Insert instead—
- (1) **Waters:** The whole of the tidal waters of Wonboyn River and its tributaries, upstream from its confluence with the Tasman Sea in Disaster Bay.
 - (2) **Prohibited fishing method:** Any method involving the use of a net, other than the following—
 - (a) a dip or scoop net (prawns),
 - (b) a hand-hauled prawn net,
 - (c) a push or scissors net (prawns),
 - (d) a landing net.
- [11] **Schedule 3, clause 148(1)**
Omit “Hume Weir,”.
- [12] **Schedule 3, clause 149(1)**
Insert “and Blowering Dam” after “Copeton Dam”.
- [13] **Schedule 3, clause 150(1)(a) and (b)**
Insert “and its tributaries” after “River” wherever occurring.
- [14] **Schedule 3, clause 150(1)(a)**
Insert “, excluding the waters of Old Man Creek” after “Ganmain”.
- [15] **Schedule 3, clause 182**
Omit the clause. Insert instead—
- 182 Lane Cove River (Lane Cove Weir to Boatshed)**
- (1) **Waters:** The whole of the waters of Lane Cove River and its tributaries, upstream from the Lane Cove Weir to a line drawn from a post at the boatshed to a post on the opposite bank.
 - (2) **Prohibited fishing method:** Any method.
 - (3) **Species of fish that must not be taken:** Any species of fish.
 - (4) **Period:** All year.
- [16] **Schedule 3, clause 183(2)(a)**
Omit “from an unpowered vessel”.
- [17] **Schedule 3, clauses 183(2)(b) and 184(2)(b)**
Omit “(but only if the fish are released alive)” wherever occurring.

[18] Schedule 3, clauses 183(3) and 184(3)

Omit “Any species of fish” wherever occurring.

Insert instead “Australian bass (*Macquaria novemaculeata*) and estuary perch (*Macquaria colonorum*)”.

[19] Schedule 7, heading

Insert “—the Act, Part 8, Div 2” after “councils”

[20] Schedule 7, clause 12(1)

Omit “(other than the Aboriginal Fishing Advisory Council)”.

[21] Schedule 7, clause 12(2)

Omit the subclause.

Schedule 2 Amendment of Fisheries Management (Aquaculture) Regulation 2017

[1] Part 2, heading

Insert “—the Act, Part 6, Div 2” after “permits”.

[2] Clause 8 Additional grounds for refusing an aquaculture permit

Insert at the end of clause 8(b)—

, or

- (c) the applicant has previously held an aquaculture permit that has been suspended or cancelled.

[3] Clause 14 Aquaculture permit holders liable to pay contributions towards cost of administration

Insert after clause 14(5)—

- (6) A person who holds 2 or more aquaculture permits is required to pay the annual contribution in relation to 1 permit only.

[4] Part 4, heading

Insert “—the Act, Part 6, Div 3” after “leases”.

[5] Clause 35 Offer of aquaculture lease for public tender

Insert “, or a further period allowed by the Minister,” after “14 days” in clause 35(5).

[6] Clauses 37(2) and 39(2)

Omit “90 days” wherever occurring. Insert instead “60 days”.

[7] Clauses 43 and 45(2)(a)

Omit the provisions.

[8] Clause 46 Transmission of aquaculture lease on lessee’s death

Insert after clause 46(a)—

- (a1) the lease document, and

[9] Clause 47 Aquaculture lease may be surrendered

Omit clause 47(5). Insert instead—

- (5) If the Minister consents to the surrender of part of a leased area, the Minister must provide the lessee with the following documents—

- (a) a copy of the plan of the leased area comprised in the new lease,
(b) a draft lease document for the leased area that is in accordance with Schedule 2, Form 1.

- (5A) The surrender of part of a leased area does not have effect unless the lessee, within 60 days, or a further period allowed by the Minister, of being provided by the Minister with the documents under subclause (5), lodges with the Minister the draft lease document signed by the lessee.

[10] Clause 48 Aquaculture leases may be consolidated

Omit clause 48(7). Insert instead—

- (7) If the Minister grants an application for the consolidation of leases, the Minister must provide the lessee with the following documents—
 - (a) a copy of the plan of the leased area comprised in the consolidated lease,
 - (b) a draft lease document for the consolidated leased area that is in accordance with Schedule 2, Form 1.
- (7A) The consolidation of leases does not have effect unless the lessee, within 60 days, or a further period allowed by the Minister, of being provided by the Minister with the documents under subclause (7), lodges with the Minister the draft lease document signed by the lessee.

[11] Clause 49 Aquaculture lease may be subdivided

Omit clause 49(8). Insert instead—

- (8) If the Minister grants an application for the subdivision of a lease, the Minister must provide the lessee with the following documents—
 - (a) a copy of the plan of the leased area comprised in each lease,
 - (b) draft lease documents for each leased area that are in accordance with Schedule 2, Form 1.
- (8A) The subdivision of the lease does not have effect unless the lessee, within 60 days, or a further period allowed by the Minister, of being provided by the Minister with the documents under subclause (8), lodges with the Minister the draft lease documents signed by the lessee.

[12] Clause 51 Minister's duties with respect to endorsing lease documents

Omit clause 51(1). Insert instead—

- (1) The Minister must make an endorsement on an aquaculture lease document necessary to record a transfer, transmission, withdrawal or access way affecting the lease.

[13] Clause 51(6) and (7)

Omit “subclause (2)” wherever occurring. Insert instead “this clause”.

[14] Clause 52 When Minister can require aquaculture lessee to lodge lease document

Omit “This subclause does not apply when the endorsement relates to a cancellation of the lease.” from clause 52(2).

[15] Schedule 2 Forms

Omit “(Clauses 37(1)(b) and 39(1)(b))” from Form 1.

Insert instead “clauses 37(1)(b), 39(1)(b), 47(5)(b), 48(7)(b) and 49(8)(b)”.

Schedule 3 Amendment of Fisheries Management (Abalone Share Management Plan) Regulation 2000

- [1] **Appendix, clause 2(1), definition of “serious fisheries offence”, paragraph (d)**
Omit “clause 66 of the *Fisheries Management (General) Regulation 2010*”.
Insert instead “the *Fisheries Management (General) Regulation 2019*, clause 75”.
- [2] **Appendix, clauses 3, Table, item 2 and 39, note**
Omit “clause 11 of the *Fisheries Management (General) Regulation 2010*” wherever occurring.
Insert instead “the *Fisheries Management (General) Regulation 2019*, clause 6”.
- [3] **Appendix, clause 24, note**
Omit “Clause 11 of the *Fisheries Management (General) Regulation 2010*”.
Insert instead “The *Fisheries Management (General) Regulation 2019*, clause 6”.
- [4] **Appendix, clauses 26(3) and 39(1) and (2)(b), excluding the note**
Omit “*Fisheries Management (General) Regulation 2010*” wherever occurring.
Insert instead “*Fisheries Management (General) Regulation 2019*”.
- [5] **Appendix, clause 35(1)(d)**
Omit “clause 66 of the *Fisheries Management (General) Regulation 2010* (Interference with set fishing gear)”.
Insert instead “the *Fisheries Management (General) Regulation 2019*, clause 75”.
- [6] **Appendix, clause 35, note**
Omit “Clause 121 of the *Fisheries Management (General) Regulation 2010*”.
Insert instead “Clause 103 of the *Fisheries Management (General) Regulation 2019*”.

Schedule 4 Amendment of Fisheries Management (Estuary General Share Management Plan) Regulation 2006

[1] Appendix, clause 2(1), definition of “prohibited size class of fish”

Omit “Division 3 of Part 2 of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “the *Fisheries Management (General) Regulation 2019*, clause 6”.

[2] Appendix, clause 15, note, Part 7A, note and clause 35F(4)

Omit “*Fisheries Management (General) Regulation 2010*” wherever occurring.

Insert instead “*Fisheries Management (General) Regulation 2019*”.

[3] Appendix, Schedule 1

Omit paragraph (a) from Column 1 in the matter relating to Wallis Lake (Forster Keys Canal Estate)—Nets.

Insert instead—

- (a) a line drawn from the southwest corner of Lot No 7026 Kenrose Street to the northwest corner of Lot No 7142 Wyuna Place,

Schedule 5 Amendment of Fisheries Management (Lobster Share Management Plan) Regulation 2000

- [1] Appendix, clauses 2(1), definition of “serious offence”, paragraph (b) and 52, Table**
Omit “clause 66 of the *Fisheries Management (General) Regulation 2010*” wherever occurring.
Insert instead “the *Fisheries Management (General) Regulation 2019*, clause 75”.
- [2] Appendix, clauses 40, note and 56, note**
Omit “clause 11 of the *Fisheries Management (General) Regulation 2010*” wherever occurring.
Insert instead “the *Fisheries Management (General) Regulation 2019*, clause 6”.
- [3] Appendix, clauses 44(1A), 45(1) and note and 56(2)(b)**
Omit “*Fisheries Management (General) Regulation 2010*” wherever occurring.
Insert instead “*Fisheries Management (General) Regulation 2019*”.
- [4] Appendix, clause 45, note**
Omit “clause 11(3)(g) of that Regulation”. Insert instead “that Regulation, clause 6(3)(g)”.
- [5] Appendix, clause 52, note**
Omit “Clause 121 of the *Fisheries Management (General) Regulation 2010*”.
Insert instead “The *Fisheries Management (General) Regulation 2019*, clause 103”.
- [6] Appendix, clause 56, note**
Omit “clause 96 of the *Fisheries Management (General) Regulation 2010*”.
Insert instead “the *Fisheries Management (General) Regulation 2019*, clause 91”.

Schedule 6 Amendment of Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006

[1] Appendix, clause 2(1), definition of “prohibited size class of fish”

Omit “Division 3 of Part 2 of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “the *Fisheries Management (General) Regulation 2019*, clause 6”.

[2] Appendix, Part 7A, note and clause 18C(7)

Omit “*Fisheries Management (General) Regulation 2010*” wherever occurring.

Insert instead “*Fisheries Management (General) Regulation 2019*”.

**Schedule 7 Amendment of Fisheries Management (Ocean
Trap and Line Share Management Plan)
Regulation 2006**

Appendix, clause 2(1), definition of “natural coast line”

Omit “*Fisheries Management (General) Regulation 2010*”.

Insert instead “*Fisheries Management (General) Regulation 2019*”.

Schedule 8 Amendment of Fisheries Management (Ocean Trawl Share Management Plan) Regulation 2006

[1] Appendix, clause 2(1), definition of “prohibited size class of fish”

Omit “Division 3 of Part 2 of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “the *Fisheries Management (General) Regulation 2019, clause 6*”.

[2] Appendix, clause 10(5), definition of “required information”, paragraph (c)

Omit “clause 145 of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “the *Fisheries Management (General) Regulation 2019, clause 124*”.

Schedule 9 Amendment of Fisheries Management (Supporting Plan) Regulation 2006

- [1] Appendix, clauses 2(1), definition of “fishing business card” and 10A(5), definition of “southern fish trawl endorsement”, Part 5C, note and clauses 11J, 13(2), 14(1) and 20(2)–(4)**

Omit “*Fisheries Management (General) Regulation 2010*” wherever occurring.

Insert instead “*Fisheries Management (General) Regulation 2019*”.

- [2] Appendix, clause 3**

Omit “Clause 117(1)(a) of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “The *Fisheries Management (General) Regulation 2019*, clause 99(1)(a)”.

- [3] Appendix, clause 12, note**

Omit “Clause 5 of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “The *Fisheries Management (General) Regulation 2019*, clause 14”.

- [4] Appendix, clause 15**

Omit “Part 3 of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “the *Fisheries Management (General) Regulation 2019*, Part 3”.

- [5] Appendix, clause 16**

Omit “Part 4 of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “the *Fisheries Management (General) Regulation 2019*, Part 4”.

- [6] Appendix, clause 17**

Omit “Part 5 of the *Fisheries Management (General) Regulation 2010*”.

Insert instead “the *Fisheries Management (General) Regulation 2019*, Part 6”.