

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

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New South Wales

## Status Information

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New South Wales

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



New South Wales

## 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—

**body** of a net means the netting that forms that part of the net forward of the codend, including the wings, belly, and any extension piece that may be inserted immediately forward of the codend.

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

**certificate of survey** for a boat means—

(a) a certificate of survey in force under the National law, within the meaning of the *Marine Safety Act 1998*, or

- (b) if a certificate of survey has not been issued for the boat—a document that—
- (i) is prepared by a marine surveyor, who is accredited by the Australian Maritime Safety Authority to conduct surveys of boats, and
  - (ii) specifies the measured length of the boat determined in accordance with the National Standard for Commercial Vessels.

**codend** of a net means the piece of netting that forms the posterior most part of the net where the catch accumulates.

**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.

**estuarine waters** has the meaning given by Schedule 1 to the Act.

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

**exempt boat** means a boat exempt from the maximum boat length under clause 18A or 18C.

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

**identifying number** of a boat means the identifier issued by the Secretary for the boat under the *Fisheries Management (General) Regulation 2019*, clause 125(3)(a), before its repeal.

**maximum boat length** means the maximum boat length for the Hawkesbury River or the maximum boat length for the Clarence and Hunter Rivers.

**maximum boat length for the Clarence and Hunter Rivers**—see clause 18(2).

**maximum boat length for the Hawkesbury River**—see clause 18(1).

**National Standard for Commercial Vessels** means the National Standard for Commercial Vessels within the meaning of the *Marine Safety (Domestic Commercial Vessel) National Law* of the Commonwealth.

**relevant fishing boat licence**—see clause 18A(1).

**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*.

**unique vessel identifier** for a boat means the vessel identifier issued for the boat by the Australian Maritime Safety Authority under the National Standard for Commercial Vessels.

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Plan.

- (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.

**Table**

	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Objective</b>	<b>Performance indicator</b>	<b>Trigger for review</b>
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 Secretary 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 Secretary, 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 Secretary, 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
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 Secretary 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 Secretary, on advice from relevant experts, determines that the level of these reported interactions is likely to threaten the survival of the protected fish



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 Secretary 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
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### 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 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.

- (2)–(5) (Repealed)

- (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	250
Estuary prawn trawl—Hunter River shares	100

Estuary prawn trawl—Hawkesbury River shares 200

## 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	Eastern school prawn ( <i>Metapenaeus macleayi</i> )
Hunter River	Eastern school prawn ( <i>Metapenaeus macleayi</i> )
	Eastern king prawn ( <i>Melicertus plebejus</i> )
Hawkesbury River	Eastern school prawn ( <i>Metapenaeus macleayi</i> )
	Eastern king prawn ( <i>Melicertus plebejus</i> )
	Broad squid ( <i>Uroteuthis sp. 3</i> )
	Slender squid ( <i>Uroteuthis sp. 5</i> )
	Luminous bay squid ( <i>Uroteuthis noctiluca</i> )
	Bubble squid ( <i>Eupyrina 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> )
	Silverbidy ( <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 armatus</i> )
	Mud crab ( <i>Scylla serrata</i> )
	Gould's squid ( <i>Nototodarus gouldi</i> )
	Broad squid ( <i>Uroteuthis</i> sp. 3)
	Slender squid ( <i>Uroteuthis</i> sp. 5)
Hunter River	Greasyback prawn ( <i>Metapenaeus bennettiae</i> )
	Tiger prawn ( <i>Penaeus esculentus</i> )
	Gould's squid ( <i>Nototodarus gouldi</i> )
	Broad squid ( <i>Uroteuthis</i> sp. 3)
	Slender squid ( <i>Uroteuthis</i> sp. 5)
	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> )
	Silverbidy ( <i>Gerres subfasciatus</i> )
	Striped grunter ( <i>Pelates quadrilineatus</i> )
	Whitebait spp. (Family: CLUPEIDAE)
	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 armatus</i> )
Mud crab ( <i>Scylla serrata</i> )	
Octopus spp. (Family: OCTOPODIDAE)	
Mantis shrimp ( <i>Erugosquilla grahami</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 31 May 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.
- (4) The trawl season may be extended by not more than 15 working days by notice in writing given by a fisheries officer.
- (4A) A fisheries officer may, in the notice extending the trawl season, limit the extension to specified parts of the Clarence River, or to specified types of fishing gear, or both.
- (5) The notice must be posted in a conspicuous place in the Clarence River area.
- (6) The fisheries officer may, at any time before extending the trawl season, arrange for a trawl trial to be conducted in the Clarence River area for the purposes of establishing the availability and size of prawns or the level of bycatch.

### **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 31 May in each succeeding year.
- (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.
- (3) The trawl season may be extended by not more than 15 working days by notice in writing given by a fisheries officer.

- (3A) A fisheries officer may, in the notice extending the trawl season, limit the extension to specified parts of Lake Wooloweyah, or to specified types of fishing gear, or both.
- (4) The notice must be posted in a conspicuous place in the Clarence River area.
- (5) The fisheries officer may, at any time before extending the trawl season, arrange for a trawl trial to be conducted in the part of the Clarence River area that consists of the waters of Lake Wooloweyah for the purposes of establishing the availability and size of prawns or the level of bycatch.

**16 Hunter River trawl season and operating hours**

- (1) The trawl season for the Hunter River area commences on the first weekday on or after 1 November each year and finishes on the last Friday in May in 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**

<b>Name</b>	<b>General description of waters</b>	<b>Hours of operation</b>
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 Bluffs 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

<p>Juno Point upstream to the vehicular ferry at Lower Portland</p>	<p>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 Bluffs, 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.</p>	<p>From midnight Sunday to 6pm Friday in each week, excluding public holidays.</p>
<p>Marramarra Creek and Coba Bay</p>	<p>The waters of Marramarra Creek and Coba Bay, upstream (ie west) from a line drawn from the south-eastern extremity of Murrum Point to the south-western extremity of Morgan Point and then to the north-eastern extremity of the entrance to Coba Bay.</p>	<p>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.</p>

## Part 6A Fishing gear

### Note—

Section 24 of the Act makes it an offence for a person to use a net or trap for taking any fish unless its use by the person for taking those fish is declared by the regulations to be a lawful use of the net or trap. This Part sets out the types of fishing gear that may be lawfully used in the fishery (and the conditions of use).

### 17A Otter trawl net (prawns)

- (1) It is lawful for an endorsement holder to use an otter trawl net for taking target species for the waters concerned as set out in clause 11 if the net complies with the description set out in relation to those waters in the Table to this clause and the following conditions are complied with—
- (a) the net is used only by the method of trawling,
  - (b) not more than 2 nets are used at any one time in the Hawkesbury River downstream from a line drawn between Juno Point and Eleanor Bluffs, or in the Clarence River,
  - (c) not more than 1 net is used at any one time in the Hunter River or in the Hawkesbury River upstream from a line drawn between Juno Point and Eleanor Bluffs,
  - (d) no string, rope, wire, cord, netting or other material is fixed to any meshes that are within 25 meshes of the draw or closing string of the codend of the net, except as permitted by subclauses (2) and (3),

- (e) the net (or each net if more than one net is used) is fitted with a bycatch reduction device of a kind approved by the Secretary for use in the waters in which the net is used, and that device is fitted in accordance with any specifications approved by the Secretary and published in the Gazette.
- (2) A draw or closing string and a secondary string may be attached to the net in accordance with one of the following methods—
- (a) **method 1:** a frill or panel of diamond shaped mesh (not less than 40 mm nor more than 50 mm), used to facilitate the insertion of a draw or closing string, is attached to the codend within 3 bars of the last row of bars of the codend; the frill or panel is no greater than 15 meshes deep and a draw or closing string is inserted directly in the codend, or by means of a secondary string, within 3 bars of the end of the codend,
  - (b) **method 2:** a frill or panel of diamond shaped mesh (not less than 40 mm nor more than 50 mm), used to facilitate the insertion of a draw or closing string, is attached to the codend; the frill or panel does not consist of a greater number of meshes in circumference than the number of bars in the circumference of the codend; and a draw or closing string is inserted directly in the frill, or by means of a secondary string, within 3 meshes of the point where the frill or panel is attached to the codend,
  - (c) **method 3:** a draw or closing string is inserted directly into the codend, or by means of a secondary string, without a frill or panel of diamond shaped mesh.
- (2A) For the purposes of subclause (2), **bars** includes a reference to meshes in the case of a codend that is a diamond shaped mesh codend.
- (3) A chafing piece may be attached to the codend of the net if—
- (a) the width of the chafing piece does not exceed half the effective operating diameter of the codend, and
  - (b) the chafing piece is hung along the codend and is not attached in any manner to the codend other than at the top, and
  - (c) the mesh of the chafing piece is not less than 80 mm.
- (4) The use of a V-bridle (consisting of cable, chain or other material) in conjunction with the net is permitted in that part of the Hawkesbury River downstream of a line drawn from Juno Point to Eleanor Bluffs, if the following conditions are complied with—
- (a) the V-bridle is secured to the otter boards and sweeps (or spreader pole) in such a way that the distance between the point of attachment to the otter boards and sweeps (or spreader pole) does not exceed 2 metres,
  - (b) the distance between the point of attachment to the otter boards and the first



hanging of the net (including sweeps and V-bridle) does not exceed 7 metres.

- (4A) For the purposes of this clause, a **square shaped mesh codend** is a codend that complies with the following description—
- (a) the mesh of the codend is not less than 27 mm nor more than 40 mm, constructed of single twine knotless polyamide or polyethylene material not more than 2.5 mm in diameter and hung on the bar so that the meshes are square shaped,
  - (b) the codend of the net is not less than 1 metre nor more than 3 metres in length,
  - (c) the codend of the net has a circumference not exceeding 3.2 metres.
- (4B) For the purposes of this clause, a **diamond shaped mesh codend** is a codend that complies with the following description—
- (a) the mesh of the codend is not less than 40 mm nor more than 60 mm, constructed of single twine material not more than 2.5 mm in diameter and hung so that the meshes are diamond shaped,
  - (b) the codend of the net has a circumference not exceeding 200 meshes.
- (5) It is also lawful to use an otter trawl net to take any by-product species in the waters in which the fish are taken, while the net is being lawfully used to take target species for the waters concerned.
- (6) For the purposes of this Plan or any other instrument under the Act, a net described in this clause may be referred to as an otter trawl net (prawns) or an otter trawl net (prawns)—estuary prawn trawl fishery.

**Table Otter trawl net (prawns)**

- (a) *Waters*—Clarence River, Hunter River and that part of Hawkesbury River upstream from a line drawn from Juno Point to Eleanor Bluffs.
- (b) *Description of net*—
  - (i) total length of net (length of head line between the first and last hanging) not exceeding 11 metres, and
  - (ii) total length of either net (when towed as twin gear in Clarence River) not exceeding 7.5 metres, and
  - 1 (iii) mesh of the body of the net (or that portion of net not capable of being used as a codend) not less than 40 mm nor more than 60 mm, and
  - (iv) codend of the net (or that portion of net capable of being used as codend) is a square shaped mesh codend, and
  - (v) sweeps secured to head line and otter board so that the distance between the point of attachment to the otter boards and the first hanging of the net does not exceed 5 metres or the distance from the trawl gallows to the stern of the boat (whichever is the greater).
- (a) *Waters*—That part of Hawkesbury River downstream from a line drawn from Juno Point to Eleanor Bluffs.
- (b) *Description of net*—
  - (i) total length of net (length of head line between the first and last hanging)—
    - (A) when one net is being towed as single gear—not exceeding 11 metres, or
    - (B) when 2 nets are being towed as twin gear— each net (length of head line of each net between the first and last hanging) not exceeding 11 metres, and
  - 2 (ii) mesh of the body of the net (or that portion of net not capable of being used as a codend) not less than 40 mm nor more than 60 mm, and
  - (iii) codend of the net (or that portion of net capable of being used as codend) is either a square shaped mesh codend or a diamond shaped mesh codend, and
  - (iv) except where a V-bridle is used, sweeps secured to head line and otter board so that the distance between the point of attachment to the otter boards and the first hanging of the net does not exceed 5 metres or the distance from the trawl gallows to the stern of the boat (whichever is the greater).

### **17B Sorting of prawns caught in certain nets**

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the following steps are taken immediately after using an otter trawl net (prawns) to take fish

in the fishery—

- (a) any prawns caught in the net are graded immediately after the net is retrieved,
- (b) the unwanted portion of the catch is returned to the water, alive, as soon as practicable (and in any case before the cooking of the retained portion of the catch).

## **Part 7 General requirements in relation to taking fish**

### **18 Boat length restrictions**

- (1) For the Act, section 68(6A), it is a condition of a Hawkesbury River endorsement that the endorsement holder does not use a boat to take fish in the fishery if the measured length of the boat is more than 12m (the ***maximum boat length for the Hawkesbury River***).
- (2) For the Act, section 68(6A), it is a condition of a Clarence River or Hunter River endorsement that the endorsement holder does not use a boat to take fish in the fishery if the measured length of the boat is more than 16m (the ***maximum boat length for the Clarence and Hunter Rivers***).
- (3) A boat is exempt from the maximum boat length if—
  - (a) the boat is an exempt boat, and
  - (b) the boat displays—
    - (i) the unique vessel identifier for the boat, or
    - (ii) the identifying number of the boat, in accordance with subclause (4).
- (4) The identifying number of the boat must be displayed—
  - (a) on both sides of the outside of the bow or wheelhouse, and
  - (b) following the letters “LFB”, and
  - (c) using letters and figures that are—
    - (i) clearly visible, and
    - (ii) in a colour that contrasts with the boat, and
    - (iii) at least 300mm high and 150mm wide.
- (5) In this clause—

***measured length*** of a boat means the measured length specified in the most recent certificate of survey for the boat.

### **18A Boats exempt from maximum boat length**

- (1) A boat is exempt from the maximum boat length for the Hawkesbury River if, immediately before the commencement of this clause—
  - (a) a fishing boat licence that specified an “EPT” exemption code (a **relevant fishing boat licence**) authorised the use of the boat for a declared commercial fishing boat activity, and
  - (b) the holder of the fishing boat licence held estuary prawn trawl—Hawkesbury River shares.
- (2) A boat is exempt from the maximum boat length for the Clarence and Hunter Rivers if, immediately before the commencement of this clause, a fishing boat licence that specified an “EPT” exemption code (a **relevant fishing boat licence**) authorised the use of the boat for a declared commercial fishing boat activity.
- (3) A boat is exempt only if the following are provided to the Secretary within the relevant period—
  - (a) the name of the boat,
  - (b) the identifying number of the boat,
  - (c) the unique vessel identifier for the boat,
  - (d) the most recent certificate of survey for the boat.
- (4) In this clause—

**relevant period** means 90 days from the commencement of this clause or a longer period determined by the Secretary.

### **18B Transfer of entitlement to exempt boat**

- (1) A person who, immediately before the commencement of this clause, held a relevant fishing boat licence may transfer the entitlement to an exempt boat to another person.
- (2) The person to whom the entitlement to an exempt boat is transferred under subclause (1) may transfer the entitlement to another person.
- (3) If a person transfers an entitlement under subclause (1) or (2)—
  - (a) the transferee is entitled to an exempt boat as if the person was the holder of the relevant fishing boat licence, and
  - (b) the transferor is no longer entitled to an exempt boat.

### **18C New and replacement exempt boats**

- (1) An exempt boat may not be replaced after 3 years from the commencement of this clause.
- (2) A person who has an entitlement to an exempt boat may not acquire an exempt boat after 3 years from the commencement of this clause.
- (3) The Secretary may extend the 3-year period specified in subclause (1) or (2) if the Secretary is satisfied exceptional circumstances exist.
- (4) A replacement boat is exempt from the maximum boat length if—
  - (a) the boat is not longer than the maximum length specified, immediately before the commencement of this clause, on the relevant fishing boat licence for the replaced boat, and
  - (b) the following are provided to the Secretary—
    - (i) the name of the boat,
    - (ii) the unique vessel identifier for the boat,
    - (iii) the most recent certificate of survey for the boat,
    - (iv) if the replacement boat is exempt because of the transfer of an entitlement under clause 18B—evidence that is, in the opinion of the Secretary, reasonably sufficient to demonstrate that the entitlement was transferred in accordance with that clause.

### **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.

## **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.

### **21A Use of fish spikes and other implements**

- (1) An endorsement holder must not, while on board a boat being used to take fish in the fishery, use a knife, fish spike, club or similar implement to pierce, impale, beat or otherwise injure any fish or other organism taken in any catch.
- (2) Subclause (1) does not apply to the use of a knife to kill or process any fish taken in the catch that are to be retained.
- (3) An endorsement holder must not, while on board a boat being used to take fish in the fishery, be in possession of a fish spike, club or similar implement that could be used to pierce, impale, beat or otherwise injure any fish or other organism.
- (4) Subclause (3) does not apply to the possession of a knife.
- (5) It is a defence to a prosecution of an offence constituted by contravening subclause (3) if the person charged proves that the implement concerned was in his or her possession for a purpose that is not unlawful.
- (6) It is a condition of an endorsement that the endorsement holder does not contravene this clause.

### **21B Bag limits for certain species**

- (1) For the purposes of section 17 (1) of the Act, the daily limit of a species of fish described in Column 1 of Schedule 3 is, when the fish are taken from waters specified opposite that species of fish in Column 4 of that Schedule and the person taking the fish falls within the class of endorsement holders specified next to the species in Column 3 of that Schedule, the quantity specified next to that species in Column 2 of

that Schedule.

- (2) For the purposes of section 17B (1) (a) of the Act, the possession limit of fish of a species described in Column 1 of Schedule 3 is, when the fish are taken from waters specified opposite that species of fish in Column 4 of that Schedule and the person in possession of that species of fish falls within the class of endorsement holders specified next to the species described in Column 3 of that Schedule, the quantity specified next to that species in Column 2 of that Schedule.
- (3) For the purposes of section 21 (1) (d) of the Act, it is a defence to a prosecution for an offence under section 18 (2) of the Act that is constituted by being in possession of fish in contravention of a possession limit imposed by this Plan if the person charged satisfies the court that the fish were lawfully taken from outside the 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.
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.
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.

### Schedule 3 Bag limits

(Clause 21B)

Column 1	Column 2	Column 3	Column 4
Species of fish	Daily limit and possession limit	Fishers to whom bag limit applies	Waters
Blue swimmer crab ( <i>Portunus armatus</i> ).	25 kilograms.	Hawkesbury River endorsement holders.	All estuarine waters.
Blue swimmer crab ( <i>Portunus armatus</i> ).	0.	Clarence River endorsement holders.	All estuarine waters.
Mud crab ( <i>Scylla serrata</i> ).	0.	Clarence River endorsement holders and Hawkesbury River endorsement holders.	All estuarine waters.