

# Fisheries Management (Aquatic Reserves) Regulation 2002

## Part 1 – Preliminary

### 1 Name of Regulation

This Regulation is the *Fisheries Management (Aquatic Reserves) Regulation 2002*.

### 2 Commencement

This Regulation commences on 1 September 2002.

This Regulation replaces the *Fisheries Management (Aquatic Reserves) Regulation 1995* which is repealed on 1 September 2002 under section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

In this Regulation:

"the Act" means the *Fisheries Management Act 1994*.

### 4 Notes

Notes in the text of this Regulation do not form part of this Regulation.

### 5 Relationship of Regulation to other instruments under the Act

Nothing in this Regulation affects any other restriction or prohibition imposed by or under the Act.

### 6 Director's consent

The Director may grant a consent to a person under this Regulation by means of a written notice given to the person and may, in the same manner, vary or revoke a consent so granted.

## Part 2 – Long Reef

### 7 The Reserve

In this Part:

"Reserve" means the Long Reef Aquatic Reserve declared by notification published in Gazette No 80 of 30 May 1980, at page 2787, being the land described in Schedule 1 together with the waters within the Reserve.

### 8 Taking of fish or marine vegetation prohibited

(1) A person must not:

- (a) take, or attempt to take, fish from the Reserve, or
- (b) gather, or attempt to gather, marine vegetation from the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(2) A person must not:

- (a) wilfully disturb, injure or interfere with fish in the Reserve, or
- (b) wilfully damage, destroy or interfere with marine vegetation in the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(3) This clause is subject to the other provisions of this Part.

## **9 General exemption**

A person:

- (a) may, by means of a spear or a hook and line, take, or attempt to take, from the Reserve fish that have fins, and
- (b) may, in accordance with the written consent of the Director, do anything else prohibited by clause 8 (1) or (2).

## **Part 3 – Shiprock**

### **10 The Reserve**

In this Part:

**"Reserve"** means the Shiprock Aquatic Reserve declared by notification published in Gazette No 46 of 26 March 1982, at page 1336, being the land described in Schedule 2 together with the waters within the Reserve.

### **11 Taking of fish or marine vegetation prohibited**

(1) A person must not:

- (a) take, or attempt to take, fish from the Reserve, or
- (b) gather, or attempt to gather, marine vegetation from the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(2) A person must not:

- (a) wilfully disturb, injure or interfere with fish in the Reserve, or
- (b) wilfully damage, destroy or interfere with marine vegetation in the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(3) This clause is subject to the other provisions of this Part.

### **12 General exemption**

A person may, in accordance with the written consent of the Director, do anything prohibited by clause 11 (1) or (2).

### **12A Construction, operation or use of slipway prohibited**

(1) A person must not construct, use or operate a jetty or slipway in the Reserve. Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(2) Subclause (1) does not apply in relation to a jetty or slipway:

- (a) lawfully constructed before, and in existence immediately before, the commencement of this clause, or
- (b) the subject of a development consent that was granted under the *Environmental Planning and Assessment Act 1979* before the commencement of this clause and remains in force.

(3) If a jetty or slipway is constructed by a person in contravention of this clause, the Director-General may, by order in writing given to the person, require that person to remove or dismantle the jetty or slipway within a period specified in the order.

(4) The method by which the jetty or slipway is to be removed or dismantled may be specified in the order.

(5) A person who fails to comply with an order given under subclause (3) is guilty of an offence. Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(6) If an order given under subclause (3) is not complied with within the period specified in it, the Director-General may cause the work specified in the order to be carried out.

(7) Action may be taken against a person under subclause (3) or (5) regardless of whether the person has been charged with having committed an offence under subclause (1).

## **Part 4 – (Repealed)**

## **Part 5 – North Harbour**

### **16 The Reserve**

In this Part:

**"Reserve"** means the North Harbour Aquatic Reserve declared by notification published in Gazette No 46 of 26 March 1982, at page 1336, being the land described in Schedule 4 together with the waters within the Reserve.

### **17 Taking of fish or marine vegetation prohibited**

(1) A person must not:

- (a) take, or attempt to take, fish from the Reserve, or
- (b) gather, or attempt to gather, marine vegetation from the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(2) A person must not:

- (a) wilfully disturb, injure or interfere with fish in the Reserve, or
- (b) wilfully damage, destroy or interfere with marine vegetation in the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(3) This clause is subject to the other provisions of this Part.

### **18 General exemption**

A person:

- (a) may, by means of a hook and line, take, or attempt to take, from the Reserve fish that have fins, and
- (b) may, in accordance with the written consent of the Director, do anything else prohibited by clause 17 (1) or (2).

### **19 Exemption for commercial fishers**

A commercial fisher:

- (a) may take, or attempt to take, from the Reserve a rock lobster in accordance with the *Fisheries Management (Lobster Share Management Plan) Regulation 2000*, and
- (b) may, on a weekday, take, or attempt to take, from the Reserve fish by means of a hauling net, but only from the part of the Reserve north of Cannae Point and east of a line drawn from Cannae Point to Manly Point.

## **Part 6 – Bushranger's Bay**

### **20 The Reserve**

In this Part:

**"Reserve"** means the Bushranger's Bay Aquatic Reserve declared by notification published in Gazette No 65 of 14 May 1982, at page 2104, being the land described in Schedule 5 together with the waters within the Reserve.

### **21 Taking of fish or marine vegetation prohibited**

(1) A person must not:

- (a) take, or attempt to take, fish from the Reserve, or
- (b) gather, or attempt to gather, marine vegetation from the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(2) A person must not:

- (a) wilfully disturb, injure or interfere with fish in the Reserve, or
- (b) wilfully damage, destroy or interfere with marine vegetation in the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(3) This clause is subject to the other provisions of this Part.

## **22 General exemption**

A person may, in accordance with the written consent of the Director, do anything prohibited by clause 21 (1) or (2).

## **Part 7 – (Repealed)**

## **Part 8 – Towra Point**

### **26 The Reserve**

In this Part:

**"refuge zone"** means the area shown lightly dotted in the diagram in Schedule 7.

**"Reserve"** means the Towra Point Aquatic Reserve declared by notification published in Gazette No 49 of 12 April 1990, at page 3070, being the land described in Schedule 7 together with the waters within the Reserve.

**"sanctuary zone"** means the area (generally referred to as Stinkpot Bay, Quibray Bay and Weeney Bay) shown hatched in the diagram in Schedule 7.

### **27 Taking of fish or marine vegetation prohibited**

(1) A person must not:

- (a) take, or attempt to take, fish from the Reserve, or
- (b) gather, or attempt to gather, marine vegetation from the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(2) A person must not:

- (a) wilfully disturb, injure or interfere with fish in the Reserve, or
- (b) wilfully damage, destroy or interfere with marine vegetation in the Reserve.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in any other case.

(3) This clause is subject to the other provisions of this Part.

### **28 General exemption**

(1) A person:

- (a) may take, or attempt to take, fish from the refuge zone by means of:
  - (i) a hook and line, or
  - (ii) a net that may lawfully be used otherwise than by a commercial fisher,and
- (b) may, in accordance with the written consent of the Director, do anything else prohibited by clause 27 (1) or (2).

(2) The exemption under subclause (1) (a) does not authorise a person to take, or attempt to take, fish from the sanctuary zone.

### **29 Exemption for commercial fishers**

(1) A commercial fisher may take, or attempt to take, fish from the refuge zone by means of:

- (a) lawful hauling nets or garfish nets (bullringing), or
- (b) lawful meshing nets, but only when used by the method known as splashing (that is, shooting the net, splashing the water in the vicinity and fully retrieving the net from the water without delay), or
- (c) lawful fish traps.

(2) The exemption under subclause (1) does not authorise a person to take, or attempt to take, fish from the sanctuary zone.

## **Part 9 – Miscellaneous**

### **30 Savings**

Any act, matter or thing that had effect under the *Fisheries Management (Aquatic Reserves) Regulation 1995* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

## **Schedule 1 Long Reef Aquatic Reserve**

(Clause 7)

The Long Reef Aquatic Reserve comprises the area in the general vicinity of Dee Why shown hatched on the following diagram:

## **Schedule 2 Shiprock Aquatic Reserve**

(Clause 10)

The Shiprock Aquatic Reserve comprises the area in the general vicinity of Port Hacking shown hatched on the following diagram:

## **Schedule 3 (Repealed)**

## **Schedule 4 North Harbour Aquatic Reserve**

(Clause 16)

The North Harbour Aquatic Reserve comprises the area in the general vicinity of Manly shown hatched on the following diagram:

## **Schedule 5 Bushranger's Bay Aquatic Reserve**

(Clause 20)

The Bushranger's Bay Aquatic Reserve comprises the area in the general vicinity of Shellharbour shown hatched on the following diagram:

## **Schedule 6 (Repealed)**

## **Schedule 7 Towra Point Aquatic Reserve**

(Clause 26)

The Towra Point Aquatic Reserve comprises the area in the general vicinity of Botany Bay described by the following metes and bounds description and indicated by the hatching and dots on the following diagram:

**Metes and bounds description**

Commencing at the northeastern extremity of Shell Point, then generally easterly along the mean high-water line around Woollooware, Stink Pot, Weeney and Quibray Bays to the point of intersection with a line drawn from the survey obelisk situated at Bonna Point to the port-hand channel marker situated approximately 1130 metres north of Towra Point, then by that line to the said port-hand channel marker, then generally southwesterly to the port-hand channel marker situated approximately 750 metres north of Pelican Point, then by a line generally southwesterly to the point of commencement.

Commencing at a post marked "FD" over broad-arrow situated on the northwestern extremity of Pelican Point, then by a line generally easterly following the mean high-water line and across any breached entrances of Stink Pot Bay to a post marked "FD" over broad-arrow situated on the Elephant's Trunk, then by a line generally southwesterly to the northern corner of Oyster Farm Lease 84.40, then to the point of commencement.

Commencing at the point of intersection of the mean high-water mark with a line drawn from the survey obelisk at Bonna Point to the northeastern corner of Oyster Farm Lease 85.195, then generally southwesterly by that line, then continuing to the mean high-water mark, then along the mean high-water line around Weeney and Quibray Bays to the point of commencement.

### Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
Cll	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments *Fisheries Management (Aquatic Reserves) Regulation 2002* published in Gazette No 135 of 30.8.2002, p 6676. This Regulation has been amended as follows:

2005	(647)		<i>Fisheries Management (Aquatic Reserves) Amendment (Shiprock Aquatic Reserve) Regulation 2005</i> . GG No 129 of 21.10.2005, p 8843. Date of commencement, on gazettal.
2006	(215)		<i>Marine Parks Amendment (Cape Byron) Regulation 2006</i> . GG No 58 of 28.4.2006, p 2392. Date of commencement, 1.5.2006, cl 2.
	No 58		<i>Statute Law (Miscellaneous Provisions) Act 2006</i> . Assented to 20.6.2006. Date of commencement of Sch 2.16, assent, sec 2 (2).
2007	(118)		<i>Marine Parks Amendment (Port Stephens-Great Lakes) Regulation 2007</i> . GG No 36 of 2.3.2007, p 1334. Date of commencement, 21.4.2007, cl 4.

### Table of amendments

Cl 12A	Ins 2005 (647), Sch 1.
Part 4 (c11 13-	Rep 2006 (215), cl 4.

15)	
Cl 18	Am 2006 No 58, Sch 2.16.
Part 7 (cll 23-25)	Rep 2007 (118), cl 4.
Sch 3	Rep 2006 (215), cl 4.
Sch 6	Rep 2007 (118), cl 4.