



Great Barrier Reef Marine Park Amendment Regulations 2002 (No. 1)¹

Statutory Rules 2002 No. 1²

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Great Barrier Reef Marine Park Act 1975*.

Dated 11 APR 2002 2002

PETER HOLLINGWORTH

Governor-General

By His Excellency's Command

DAVID KEMP

Minister for the Environment and Heritage

1 Name of Regulations

These Regulations are the *Great Barrier Reef Marine Park Amendment Regulations 2002 (No. 1)*.

2 Commencement

These Regulations commence on gazettal.

3 Amendment of *Great Barrier Reef Marine Park Regulations 1983*

Schedule 1 amends the *Great Barrier Reef Marine Park Regulations 1983*.

Schedule 1 Amendments

(regulation 3)

[1] Subregulation 4 (1), before definition of *authorisation*

insert

aquaculture operation, in relation to black tiger prawns, means an operation for the propagation, rearing, keeping or breeding of black tiger prawns.

[2] Subregulation 4 (1), after definition of *bareboat operation*

insert

black tiger prawns means prawns of the species *Penaeus monodon*.

**[3] Subregulation 4 (1), after definition of
Mackay/Capricorn Section**

insert

Mission Beach trawl closure area means the area described in Schedule 1A.

[4] After regulation 22

insert

22A Relevant permission for collecting prawns in Mission Beach trawl closure area

- (1) The Authority must not grant a relevant permission to use or enter the Mission Beach trawl closure area for the purpose of collecting black tiger prawns for aquaculture operations if the grant would result in more than 5 persons being permitted (whether under a relevant permission in force under regulation 22 or under a permission in force under Division 5.2), at the same time, to use or enter that area for the purpose of carrying out that activity.
- (2) For this regulation, a partnership is taken to be one person.

[5] Part 5, heading

substitute

Part 5 Unzoned area

Division 5.1 Permission to carry on prescribed activity

[6] After regulation 37

insert

Division 5.2 Permission to carry on other activity**37A Definition**

In this Division:

collecting includes removing, gathering, catching, capturing, killing, destroying, carrying away, bringing ashore, interfering with or obtaining by any means, or attempting to carry out any of these acts.

37B Collecting prawns in Mission Beach trawl closure area

- (1) A person is guilty of an offence if:
- (a) the person uses or enters an unzoned area of the Mission Beach trawl closure area for the purpose of collecting black tiger prawns for aquaculture operations; and
 - (b) the use or entry is not authorised by a written permission granted to the person by the Authority under this Division.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

37C Application for permission

- (1) An application to the Authority for a permission to use or enter an unzoned area of the Mission Beach trawl closure area for the purpose of collecting black tiger prawns for aquaculture operations must be in writing and must specify:
- (a) the name and address of the person making the application; and

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- (b) the name assigned to the Section of the Marine Park that is to be used or entered; and
 - (c) the purposes for which the Section is to be used or entered; and
 - (d) any prudent and feasible alternatives to the proposed use or entry; and
 - (e) the proposed movement within the Section of any person proposing to use or enter the Section; and
 - (f) the location of the use of, or entry into, the Section, including the name of any shoal, reef or island on or near which such use or entry is proposed; and
 - (g) the period in respect of which the permission is sought; and
 - (h) the means of transport for entry into, use within, and departure from the Section; and
 - (i) such other information (if any) as the Authority may reasonably require and has requested the applicant to furnish.

Note Information provided in an application under this regulation may also be considered by the Authority in relation to an application to undertake the same activity in a zoned area.

- (2) However, an application is not invalid only because it does not include all the information required by subregulation (1).

37D Consideration of application

In considering an application for a permission under this Division, the Authority must have regard to:

- (a) the matters specified in paragraphs 18 (4) (b), (c), (d), (e), (f), (h), (i), (j) and (k); and
- (b) the means of transport for entry into, use within or departure from the Section and the adequacy of provisions for vessel mooring, landing, parking, loading and unloading.

37E Further particulars in relation to an application

- (1) The Authority may, in respect of an application for permission under this Division, by notice in writing given to the applicant, request the applicant to give to the Authority in writing any other information that the Authority reasonably needs to consider the application.
- (2) If the Authority requests further information under subregulation (1), and the applicant does not give the information to the Authority within 60 days after the date of the request, or any further time allowed by the Authority before the end of that 60 day period, the application is taken to have lapsed.

37F Advertising of application

- (1) If, in considering an application for a permission under this Division, the Authority considers that the granting of the permission may restrict the reasonable use by the public of a part of the Marine Park, the Authority may, by notice in writing given to the applicant, require the applicant, within the period specified in the notice, to give public notice by written advertisement:
 - (a) setting out such information relating to the application as the Authority reasonably requires; and
 - (b) inviting interested persons to lodge with the Authority comments in writing in relation to the application within a period specified by the Authority, being a period of not less than 30 days; and
 - (c) specifying an address to which such comments may be sent.
- (2) Before making a decision in respect of an application for a permission in relation to which public notice is required to be given under subregulation (1), the Authority must give due consideration to any written comments received in response to such a notice.

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- (3) In subregulation (1), a reference to a written advertisement is a reference to a notice published on 2 days, separated by at least 7 days and within a period of 14 days:
- (a) in the *Gazette*; and
 - (b) in a newspaper that has circulation generally in the State of Queensland; and
 - (c) in a newspaper (if any) that is a local newspaper that has circulation in areas of the State of Queensland that are adjacent to the part of the Marine Park that is proposed to be used or entered.

37G Grant or refusal of permission

- (1) If a person has made an application for a permission under this Division and has complied with any requirement or request duly made by the Authority in relation to the application, the Authority must:
- (a) grant the permission in writing; or
 - (b) by notice in writing given to the person, refuse to grant such permission.
- (2) The Authority must not grant a permission under this Division if the grant would result in more than 5 persons being permitted (whether under a permission in force under this Division or under a relevant permission in force under regulation 22), at the same time, to use or enter the Mission Beach trawl closure area for the purpose of collecting black tiger prawns for aquaculture operations.
- (3) A permission under this Division may be granted subject to such conditions (if any) as the Authority specifies in the permission, being:
- (a) conditions indemnifying the Authority in respect of costs to the Authority that the permission holder's activities might incur; and
 - (b) conditions appropriate to the attainment of the object of the Act (including a requirement that the person give the Authority a written undertaking in a form approved by the Authority).

- (4) If a permission under this Division is granted subject to a condition, the Authority may vary the condition at any time to ensure that the condition is a condition appropriate to the attainment of the object of the Act:
 - (a) in circumstances other than those to which subregulation 55 (1) or (2) or 56 (1) applies; and
 - (b) if the permission holder consents in writing.
- (5) A permission granted under this Division remains in force for the period specified in the permission unless it is sooner surrendered or revoked.
- (6) For subregulation (2), a partnership is taken to be one person.

37H Contravening conditions of a permission

- (1) A person is guilty of an offence if:
 - (a) a permission granted under this Division is subject to a condition; and
 - (b) the condition applies to the person; and
 - (c) the person engages in conduct; and
 - (d) the conduct contravenes the condition.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) In this regulation:

engage in conduct means:

 - (a) do an act; or
 - (b) omit to perform an act.

[7] Before regulation 38

insert

Division 5.3 Miscellaneous

[8] After regulation 40

insert

40A Trawling in the Mission Beach trawl closure area

- (1) The master of a vessel, and the person who holds the licence for the East Coast Trawl Fishery (under the *Fisheries Act 1994* (Qld)) for the vessel, are each guilty of an offence if the vessel engages in trawling in the Mission Beach trawl closure area, other than in accordance with a permission of the kind mentioned in subregulation (2).

Penalty: 50 penalty units.

- (2) For subregulation (1), the kind of permission is a relevant permission in force under regulation 22, or a permission in force under Division 5.2, granted to the person mentioned in subregulation (1) that allows the person to use or enter the Mission Beach trawl closure area for the purpose of collecting black tiger prawns for aquaculture operations.
- (3) An offence against subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) For subregulation (1), a vessel is taken to be engaged in trawling if the vessel has its nets in the water.

[9] Subregulation 51 (3)

omit

37 (1) or

insert

37 (1), 37G (1) or

[10] Subregulation 55 (1)

omit

regulation 45,

insert

regulation 37G or 45,

[11] Paragraph 55 (2) (a)

omit

regulation 45

insert

regulation 37G or 45

[12] Paragraph 56 (1) (a)

omit

regulation 45;

insert

regulation 37G or 45;

[13] Paragraphs 58 (2) (a) and (3) (a)

omit

regulation 45

insert

regulation 37G or 45

[14] Subregulation 59 (1)

substitute

- (1) A person who was the holder of:
 - (a) a relevant permission or an authority granted in relation to a relevant permission; or
 - (b) a permission to carry on a prescribed activity in an unzoned area; or

(c) a permission granted under regulation 37G or 45; may be convicted of an offence by reason of his or her failure to comply with a condition of the permission notwithstanding that the permission has been revoked or has otherwise ceased to be in force.

[15] Subregulation 67 (1)

omit

subregulation 38 (3), 40 (1) or 41A (1)

insert

regulation 37G, 38, 40 or 41A

[16] Subparagraph 118 (1) (a) (iii)

substitute

(iii) a permission under regulation 37G or 45;

[17] Paragraph 120 (1) (a)

substitute

(a) a decision mentioned in paragraph 118 (1) (a), other than a decision in relation to an application for:

- (i) a relevant permission for the construction and conduct of a mooring for vessels in the Cairns Planning Area; or
- (ii) a relevant permission, or a permission under Division 5.2, to use or enter the Mission Beach trawl closure area for the purpose of collecting black tiger prawns for aquaculture operations; or

[18] After subregulation 120 (1A)

insert

- (1B) A person who applied for the grant of a relevant permission, or a permission under Division 5.2, to use or enter the Mission Beach trawl closure area for the purpose of collecting black tiger prawns for aquaculture operations may ask the Authority to reconsider its decision on the application.

[19] Before Schedule 1

insert

Schedule 1A Mission Beach trawl closure area

(regulation 4, definition of *Mission Beach trawl closure area*)

The area of the Great Barrier Reef Marine Park bounded by a notional line beginning at the intersection of the coastline of the mainland at low water with the parallel 17° 39.1' S near Double Point and running progressively:

- easterly along the parallel to 17° 39.1' S, 146° 11.8' E
- southerly along the geodesic to 17° 52.81' S, 146° 9.62' E
- south-easterly along the geodesic to 18° 3.92' S, 146° 13.39' E
- north-westerly along the geodesic to the easternmost intersection of the coastline of the mainland at low water with the parallel 18° 1.97' S near the southern bank of the mouth of the Tully River
- generally northerly along the coastline at low water to the point of commencement.

Note This description is based on the Geocentric Datum of Australia, 1994.

Notes

1. These Regulations amend Statutory Rules 1983 No. 262, as amended by 1985 No. 169; 1986 No. 1; 1987 No. 247; 1988 No. 185; 1989 Nos. 269, 367 and 368; 1990 Nos. 9 and 35; 1991 Nos. 63, 257 and 296; 1992 No. 69; 1993 Nos. 188, 206 and 266; 1996 No. 277; 1997 Nos. 96 and 326; 1999 No. 252; 2000 No. 5; Act No. 137, 2000; Statutory Rules 2001 Nos. 12, 178, 197 and 307; 2002 No. 8.
2. Notified in the *Commonwealth of Australia Gazette* on / 2002.

18 April