



Northern Prawn Fishery Management Plan 1995

as amended

made under subsection 17 (1) of the

Fisheries Management Act 1991

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taking into account amendments up to *Northern Prawn Fishery Management
Amendment Plan 2001 (No. NPF 03)*

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Part 1 Introductory provisions

1 **Name of Plan** [see Note 1]

This Plan is the *Northern Prawn Fishery Management Plan 1995*.

2 **Commencement**

This plan of management commences when notice of the fact that the plan has been determined is published in the *Gazette* under subsection 19 (1) of the Act.

3 **Interpretation**

In this Plan, unless the contrary intention appears:

Act means the *Fisheries Management Act 1991*.

acting for, in relation to a person, means acting with the consent of, and on behalf of, the person.

active Class B statutory fishing right has the meaning given in section 12.

agent, of the owner or holder of a statutory fishing right, means:

- (a) a person responsible for the affairs and property of the owner or holder under a law of the Commonwealth, a State or Territory, including a receiver, liquidator, trustee or guardian of the owner or holder, or an executor or administrator of the owner's or holder's estate; or
- (b) a person appointed as the owner's or holder's agent and notified to AFMA under subsection 32 (1).

by-catch action plan means a plan to reduce the incidental catch of non-target commercial and other species in the Northern Prawn Fishery area to a minimum.

certificate, for a statutory fishing right, means a certificate given under subsection 22 (2) of the Act as evidence of the grant of the statutory fishing right.

Class B statutory fishing right means a statutory fishing right described in section 11.

ecologically related species means:

- (a) any species of fish, marine mammal or marine reptile that is prey of, or preys on, any species of prawns (including penaeid prawns and carid prawns), scampi, bugs, scallops or squid; and
- (b) any species of animal that is, or may be, incidentally affected by methods used to fish for any species of prawns (including penaeid prawns and carid prawns), scampi, bugs, scallops or squid.

eligible person, for a statutory fishing right, means a person who is registered as an eligible person for a grant of the fishing right under section 26 of the Act.

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footrope, for a prawn trawl net, means the rope to which the netting at the bottom of the net is attached at the mouth of the net.

gear statutory fishing right means a statutory fishing right described in section 7.

headrope, for a prawn trawl net, means the rope to which the netting at the top of the net is attached at the mouth of the net.

nominated boat, for a statutory fishing right, means a boat nominated on the certificate for the fishing right under section 19A.

Northern Prawn Fishery means commercial fishing in the Northern Prawn Fishery area.

Northern Prawn Fishery area means the area described in Schedule 1.

old Class A statutory fishing right means a Class A statutory fishing right within the meaning of clause 7 of this Plan, as in force immediately before the commencement of this definition.

old suspense Class A statutory fishing right means a Class A statutory fishing right within the meaning of clause 9 of this Plan, as in force immediately before the commencement of this definition.

operational footrope, for a prawn trawl net, means the part of the footrope of the net that lies between the 2 outermost points at which the netting at the bottom of the net is attached to the footrope.

operational headrope, for a prawn trawl net, means the part of the headrope of the net that lies between the 2 outermost points at which the netting at the top of the net is attached to the headrope.

provisional grant means a grant or grants to which section 23 of the Act applies.

statutory fishing right means a gear statutory fishing right, top up statutory fishing right, or Class B statutory fishing right, for the Northern Prawn Fishery.

surplus Class B statutory fishing right has the meaning given in section 13.

top up statutory fishing right means a statutory fishing right described in section 8.

try net means a prawn trawl net that:

- (a) is used with otter boards or a beam; and
- (b) has:
 - (i) up to 3.66 metres of operational headrope; and
 - (ii) up to 5.49 metres of operational footrope.

VMS means a vessel monitoring system with a satellite transceiver of a kind approved in writing by AFMA.

Note Unless the contrary intention appears, terms defined in the *Fisheries Management Act 1991* have the same meanings in this Plan. Some of those terms and their meanings are:

AFMA means the Australian Fisheries Management Authority.

Australian fishing zone means:

- (a) the waters adjacent to Australia within the outer limits of the exclusive economic zone; and

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- (b) the waters adjacent to each external Territory within the outer limits of the exclusive economic zone;

but does not include:

- (c) coastal waters of, or waters within the limits of, a State or internal territory; or
 (d) waters that are excepted waters.

exclusive economic zone means the exclusive economic zone, within the meaning of the *Seas and Submerged Lands Act 1973*, adjacent to the coast of Australia or the coast of an external Territory.

fish includes all species of bony fish, sharks, rays, crustaceans, molluscs and other marine organisms, but does not include marine mammals or marine reptiles.

officer means:

- (a) a person appointed under section 83 of the Act to be an officer for the purposes of the Act; or
 (b) a member or special member of the Australian Federal Police or a member of the police force of a State or Territory; or
 (c) a member of the Defence Force.

Register means the Register of Statutory Fishing Rights kept by AFMA under section 44 of the Act.

scientific permit means a scientific permit granted under section 33 of the Act.

statutory fishing right has the meaning given by section 21 of the Act.

3A Meaning of commercial fishing in the Northern Prawn Fishery area

In this Plan, **commercial fishing in the Northern Prawn Fishery area** means fishing of the kind mentioned in subsection 14 (4) or (5).

4 Objectives

The objectives of this Plan are to make sure:

- (a) that the objectives pursued by the Minister in the administration of the Act, and by AFMA in the performance of its functions, are met in relation to the Northern Prawn Fishery; and
 (b) that the incidental catch of non-target commercial and other species in that Fishery is reduced to a minimum.

5 Measures

The measures by which the objectives of this plan are to be attained include:

- (a) developing and implementing appropriate management measures (including directions referred to in subsection 17 (5A) of the Act) in relation to the Northern Prawn Fishery; and
 (b) implementing an effective program of surveillance for the Northern Prawn Fishery to ensure compliance with this plan; and
 (c) promoting research that is relevant to the Northern Prawn Fishery; and
 (d) preparing an annual budget of costs associated with managing the Northern Prawn Fishery; and
 (e) setting and collecting levies and fees in relation to the Northern Prawn Fishery; and

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- (f) collecting data that can be used to assess the status of the Northern Prawn Fishery; and
- (g) monitoring the impact of catching operations in the fishery on ecologically related species and implementing any practical strategies that are necessary to minimise the impact of those operations on those species; and
- (h) developing and implementing a by-catch action plan.

6 Performance criteria

- (1) The performance criteria against which the measures taken may be assessed are:
 - (a) the status of economic efficiency of the Northern Prawn Fishery; and
 - (b) the status of the biological resources and environmental conditions in the Northern Prawn Fishery area; and
 - (c) the cost effectiveness of the management arrangements for the Northern Prawn Fishery.
- (2) AFMA and the Northern Prawn Fishery Management Advisory Committee must, from time to time, conduct assessments of the effectiveness of the measures taken to implement the objectives of this plan by reference to the performance criteria.
- (3) AFMA must publish an annual report assessing the performance of this plan with reference to the most recent assessment carried out under subsection (2).

Part 2 Statutory fishing rights

7 Gear statutory fishing rights

- (1) A gear statutory fishing right is a right to use the following equipment for commercial fishing in the Northern Prawn Fishery area:
 - (a) if a determination under section 7A is in force:
 - (i) a prawn trawl net with an operational headrope of a length calculated by dividing the total length of operational headrope specified in the determination by 53 844 (measured when the rope is taut); and
 - (ii) a prawn trawl net with an operational footrope of a length calculated by multiplying the length of operational headrope worked out under subparagraph (i) by 1.15 (measured when the rope is taut); and
 - (iii) the netting attached to that operational headrope and footrope;
 - (b) if no determination is in force under section 7A:
 - (i) 10 centimetres of operational headrope, and 11.5 centimetres of operational footrope, of a prawn trawl net (measured when the ropes are taut); and
 - (ii) the netting attached to that operational headrope and footrope.
- (2) The result of a calculation made under subsection (1) must be:
 - (a) if the calculation results in a number of centimetres ending in 0.5 or more — rounded up to the next centimetre; or
 - (b) if the calculation results in a number of centimetres ending in less than 0.5 — rounded down to the next centimetre.

7A Determination of fishing capacity

- (1) AFMA may determine a total length of operational headrope that may be used under gear statutory fishing rights in the area of the Northern Prawn Fishery.

Note A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*: see subsection 17 (6B) of the Act.

- (2) Before making a determination under subsection (1), AFMA must:
 - (a) consult, and consider the views of, the Northern Prawn Fishery Management Advisory Committee; and
 - (b) invite interested persons to make representations in connection with the proposed determination by a date specified in the invitation; and
 - (c) consider any representations received from interested persons by the date specified in the invitation under paragraph (b).
- (3) A determination under subsection (1) must not commence within 4 months after it is notified in the *Gazette*.

- (4) In subsection (2):
interested person includes:
- (a) a person who can demonstrate an ongoing involvement in the Northern Prawn Fishery that is likely to be affected by a determination under subsection (1); and
 - (b) an entity the objects or purposes of which include, or the activities of which relate to, the Northern Prawn Fishery.

8 Top up statutory fishing rights

- (1) A top up statutory fishing right is a right to use the following equipment for commercial fishing in the Northern Prawn Fishery area:
- (a) 10 centimetres of operational headrope, and 11.5 centimetres of operational footrope, of a prawn trawl net (measured when the ropes are taut);
 - (b) the netting attached to that operational headrope and footrope.
- (2) A top up statutory fishing right is:
- (a) in force for 2 years beginning on the date of grant of the fishing right; and
 - (b) non-transferable.

Note See s 3A for the meaning of *commercial fishing in the Northern Prawn Fishery area*.

11 Class B statutory fishing rights

A Class B statutory fishing right is:

- (a) an active Class B statutory fishing right; or
- (b) a surplus Class B statutory fishing right.

12 Active Class B statutory fishing rights

An active Class B statutory fishing right is a right:

- (a) to use a trawl boat for commercial fishing in the Northern Prawn Fishery area; and
- (b) for which there is a nominated boat.

13 Surplus Class B statutory fishing rights

A surplus Class B statutory fishing right is a right:

- (a) to use a trawl boat for commercial fishing in the Northern Prawn Fishery area; and
- (b) for which there is no nominated boat.

Note See s 3A for the meaning of *commercial fishing in the Northern Prawn Fishery area*.

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14 Who may fish commercially in the Northern Prawn Fishery area

- (1) If subsection (2) or (3) applies to a person, the person may engage in commercial fishing in the Northern Prawn Fishery area.

Note See s 3A for the meaning of *commercial fishing in the Northern Prawn Fishery area*.

- (2) This subsection applies to a person if:
- (a) the person:
 - (i) is using a nominated boat; and
 - (ii) is, or is acting for, the holder of an active Class B statutory fishing right in force for the boat; and
 - (b) the boat is also nominated for at least 100 gear or top up statutory fishing rights.
- (3) This subsection applies to a person if:
- (a) the person is, or is acting for, the holder of a scientific permit for the Northern Prawn Fishery; and
 - (b) the permit authorises the holder to engage in commercial fishing in the Fishery area.
- (4) Subject to any relevant direction under section 25, the person may engage in commercial fishing in the Northern Prawn Fishery area for:
- (a) any species of prawns (including penaeid and carid prawns), scampi, bugs or scallops; and
 - (b) any species of squid, using a prawn trawl apparatus.
- (5) The person may engage in commercial fishing in the area for any other species of fish only if the fish are taken:
- (a) as an incidental part of fishing for the fish mentioned in paragraph (4) (a) or (b); or
 - (b) in accordance with another plan of management under the Act, or under a law of a State or Territory, that applies to the Fishery.
- (6) However, the person may only engage in the commercial fishing mentioned in subsection (4) or (5) using prawn trawl nets that have a combined operational headrope and footrope length (except for the operational headrope and footrope length of a try-net) that is not greater than the combined operational headrope and footrope length that the gear and top up statutory fishing rights nominated for the boat allow the person to use.

14A Who may receive, carry or process fish

Subject to any relevant direction under section 25, a person may receive by transshipment, carry or process fish taken in accordance with section 14 only if:

- (a) the person:
 - (i) is using a boat for which a fishing permit is in force for the Northern Prawn Fishery; and
 - (ii) is, or is acting for, the holder of the fishing permit; or

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- (b) the person is, or is acting for, the holder of a Class B statutory fishing right for which a boat is nominated.

15 Maximum number of statutory fishing rights

AFMA must make sure that, at any one time:

- (a) no more than 53,844 gear statutory fishing rights are in force; and
(b) no more than 132 Class B statutory fishing rights are in force.

16 Registration of eligible persons (Act s 26)

- (1) This section applies if AFMA publishes a notice, under section 24 of the Act, declaring that AFMA intends to grant statutory fishing rights for the Northern Prawn Fishery.
- (2) A person satisfies the conditions for registration as an eligible person for the grant of a gear statutory fishing right if the person is the owner of an old Class A statutory fishing right immediately before the end of the period stated in the notice.

Note The Register of Statutory Fishing Rights kept by AFMA for the Northern Prawn Fishery includes information about the owner of a statutory fishing right.

- (3) A person satisfies the conditions for registration as an eligible person for the grant of a top up statutory fishing right if, immediately before the end of the period stated in the notice:
- (a) the person is the holder of an active Class B statutory fishing right for a boat; and
(b) up to 299 old Class A statutory fishing rights are nominated for the boat.

Note A person who satisfies the conditions for registration as an eligible person for the grant of a statutory fishing right may apply to AFMA, in the approved form, for registration as an eligible person for the grant of the right. The application must be made within the period stated in the notice published under s 24 of the Act: see para 25 (f) and subs 26 (1) of the Act.

16A Provisional grants of statutory fishing rights (Act s 23)

- (1) If a person is registered as an eligible person for the grant of a statutory fishing right, AFMA must make a provisional grant of the fishing right to the person in accordance with this section.
- (2) If the person is registered as an eligible person for the grant of a gear statutory fishing right, the provisional grant is 1 gear statutory fishing right for each old Class A statutory fishing right owned by the person immediately before the end of the period mentioned in subsection 16 (2).
- (3) If the person is also registered as an eligible person for the grant of a top up statutory fishing right, the provisional grant also includes the number of top up statutory fishing rights worked out using the formula:

$$300 - n;$$

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where:

n is the number of old Class A statutory fishing rights nominated for a boat immediately before the end of the period mentioned in subsection 16 (2).

Note See Div 3 of Pt 8 of the Act about review by the Statutory Fishing Rights Allocation Review Panel of a provisional grant.

16B Holders of old suspense Class A statutory fishing rights

- (1) This section applies if:
- (a) an eligible person for section 16A asks AFMA, under section 31 of the Act, to grant to the person 1 gear statutory fishing right for each old Class A statutory fishing right owned by the person immediately before the end of the period mentioned in subsection 16 (2); and
 - (b) a number of the old Class A statutory fishing rights so owned are old suspense Class A statutory fishing rights, within the meaning of this Plan, as in force immediately before the commencement of this section.

Note Under s 31 of the Act, if a person to whom the grant of a fishing right is available asks AFMA to grant the fishing right, AFMA must grant the fishing right to the person. The grant is not the same as a provisional grant under s 16A of this Plan.

- (2) The person may state that the person does not intend to apply, under paragraph 19 (2) (a), for a boat to be nominated for a stated number of gear statutory fishing rights.
- (3) The maximum number of gear statutory fishing rights that the person may include in the statement is the number of old suspense Class A statutory fishing rights owned by the person.

17 Request for grant (Act s 31)

- (1) AFMA may grant a statutory fishing right to a person only if:
- (a) a notice mentioned in subsection 23 (2) of the Act stating that the person is to be granted the right is published in the *Gazette* (the *Gazette notice*); and
 - (b) the person requests AFMA to make the grant.

Note 1 Under subs 23 (3) of the Act, AFMA must not grant a statutory fishing right:

- (a) until the end of the period within which applications may be made to the Panel for review of provisional grants; or
- (b) if an application has been made to the Panel — before the application has been dealt with by the Panel or otherwise disposed of.

Note 2 Subsection 30 (2) of the Act provides that a grant ceases to be available to a person if the person does not tender the amount of charge due and payable under the *Statutory Fishing Rights Charge Act 1991* within 30 days after the grant becomes available to the person. At present, there is no charge payable under that Act for statutory fishing rights granted other than by auction or tender.

- (2) Subsection (3) applies if the person does not make the request for the grant within 30 days after the later of:
 - (a) the end of the period within which, under section 143 of the Act, applications to the Panel may be made for review of the decision

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- mentioned in subsection 23 (1) of the Act made by AFMA or a Joint Authority in relation to the grant; and
- (b) if an application in relation to the decision is made to the Panel under section 143 of the Act — the day the application is dealt with by the Panel or otherwise disposed of.
- (3) AFMA must send a notice (the *reminder notice*) to the person telling the person that the person must make the request within the period stated in the notice and indicating the consequences for failure to do so.
 - (4) If the person does not make the request within the period stated in the reminder notice, AFMA must send another notice (the *final notice*) to the person stating that the person's registration will be cancelled if the person does not, within 14 days after the final notice is sent:
 - (a) make the request; and
 - (b) explain to AFMA why the person did not make the request within the period stated in the reminder notice.
 - (5) AFMA must cancel the person's registration as an eligible person if, despite a final notice, the person does not:
 - (a) make the request within 14 days after the final notice is sent; and
 - (b) have a reasonable excuse for not making the request within the period stated in the reminder notice; and
 - (c) explain the excuse to AFMA within 14 days after the final notice is sent.
 - (6) If AFMA cancels a person's registration as an eligible person, AFMA must amend its records accordingly.

Note 1 AFMA must grant a statutory fishing right to a person to whom the grant of the right is available if the person asks AFMA to grant the right: see s 31 of the Act. See note 1 after subs 17 (1) for when a grant is not available because an application may be made, or is made, to the Panel for review of the decision in relation to the grant.

Note 2 A statutory fishing right ceases to have effect if AFMA revokes this Plan: see subs 20 (4) and 22 (3) of the Act.

Note 3 AFMA must register all statutory fishing rights granted: see s 45 of the Act.

17A Certificates proving grant of Class B statutory fishing rights (Act s 22 (2))

- (1) AFMA must record on the certificate for a Class B statutory fishing right the information about the fishing right that is entered on the Register.
- (2) In addition, AFMA must record on the certificate for a Class B statutory fishing right:
 - (a) the number of gear statutory fishing rights in relation to which the Class B statutory fishing right is held; and
 - (b) the number of top up statutory fishing rights (if any) in relation to which the Class B statutory fishing right is held.

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17B Certificates proving grant of gear or top up statutory fishing rights (Act s 22 (2))

- (1) AFMA must record on a person's certificate for a gear or top up statutory fishing right the information about the fishing right that is entered on the Register.
- (2) If the person elects, under section 23B, to hold the statutory fishing right in relation to a Class B statutory fishing right, AFMA must also record on the certificate the registered number of the Class B statutory fishing right.
- (3) If the person states, in accordance with section 16B, that the person does not intend to apply, under paragraph 19 (2) (a), for a boat to be nominated for a number of gear statutory fishing rights, AFMA must also record the statement on the certificate.

17C Certificates may show grant of more than 1 statutory fishing right

AFMA may give a person a certificate as evidence of the grant of more than 1 statutory fishing right.

19 Applications for boat nomination and replacement

- (1) The holder of a Class B statutory fishing right may use a boat for commercial fishing in the Northern Prawn Fishery area only if the boat is nominated for the statutory fishing right.
- (2) The holder of a statutory fishing right may apply, in writing, to AFMA in the approved form:
 - (a) for a boat to be nominated on the certificate for the statutory fishing right; or
 - (b) if the holder intends to use a boat other than the nominated boat for commercial fishing in the Northern Prawn Fishery area — for the particulars of the nominated boat that are recorded on the certificate for the statutory fishing right to be replaced with the particulars of the other boat.
- (3) However, the holder of a top up statutory fishing right may not apply to AFMA for the particulars of the nominated boat that are recorded on the certificate for the statutory fishing right to be replaced with the particulars of another boat.
- (4) In addition, the holder of a statutory fishing right may not apply to AFMA for:
 - (a) particular gear or top up statutory fishing rights to be nominated for more than 1 boat; or
 - (b) a Class B statutory fishing right to be nominated for more than 1 boat; or
 - (c) if top up statutory fishing rights are nominated for a boat — nomination of the boat for a total of more than 300 gear and top up statutory fishing rights in any combination; or

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- (d) amendment of the certificate for the Class B statutory fishing right in accordance with paragraph (2) (b) in the following circumstances:
 - (i) the nomination is made in relation to top up statutory fishing rights; and
 - (ii) the nominated boat is not a constructive total loss; or
 - (e) nomination of fewer than 100 gear or top up statutory fishing rights for a boat.
- (5) Also, if a boat is identified on a certificate as the nominated boat for a Class B statutory fishing right, the holder of another Class B statutory fishing right may not apply for nomination of that boat for the holder's Class B statutory fishing right.
- (6) An applicant must give AFMA the certificate for the relevant statutory fishing right with the application.

Note Under s 24, if the number of gear or top up statutory fishing rights nominated in relation to a Class B statutory fishing right is reduced to fewer than 100, the Class B statutory fishing right ceases to be in force.

19A Boat nomination and replacement

- (1) As soon as practicable after receiving an application made under section 19, AFMA must:
- (a) nominate the boat, or the other boat, in accordance with the application; and
 - (b) return the certificate for the statutory fishing right to the holder of the statutory fishing right.
- (2) Section 19 does not prevent AFMA from giving a person a single certificate as evidence that the person holds 2 or more statutory fishing rights.

21 Applications for cancellation of nomination of a boat

- (1) The holder of an gear statutory fishing right may apply to AFMA for cancellation of the nomination of a boat.
- (2) The holder of an active Class B statutory fishing right may apply to AFMA for cancellation of the nomination of a boat.
- (3) An application must be accompanied by the certificate for the statutory fishing right.
- (4) As soon as practicable after receiving the application, AFMA must cancel the nomination of the boat for each gear statutory fishing right for which the boat is nominated, by amending the certificate.
- (6) If AFMA cancels the nomination of a boat on the certificate of a Class B statutory fishing right, AFMA must also cancel the nomination of the boat on the certificate of each gear statutory fishing right on which it is nominated.

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22 Obligations on the holders of fishing concessions

- (1) The holder of a statutory fishing right must:
 - (c) give to AFMA any biological, economic and technical data available to the holder if AFMA requests it; and
 - (d) comply with any relevant direction under section 25; and
 - (e) comply with this plan; and
 - (ea) comply with any by-catch action plan to make sure that the incidental catch of any species that the holder is not entitled to take, except as by-catch, is kept to a minimum; and
 - (f) comply with all other conditions to which the statutory fishing right is subject; and
 - (g) if the boat that is nominated on the holder's certificate of a Class B statutory fishing right is not required, under a law in force in a State or Territory, to display an identifying mark or number — cause the registration number of the boat's Class B statutory fishing right to be displayed on the boat; and
 - (h) make sure that a nominated boat does not receive prawns or by-catch taken by another boat, unless each container of the prawns or by-catch has attached to it a written statement, capable of being read on its arrival at a processing plant, showing:
 - (i) the name of the boat that took the prawns or by-catch; and
 - (ii) the date when the prawns or by-catch were taken; and
 - (iii) the date when the container was received on the boat; and
 - (i) make sure that the nominated boat is not used for fishing unless:
 - (i) it is fitted with a VMS that is operating continuously; or
 - (ii) AFMA has given written permission for the boat to be used without a VMS that operates continuously.
- (2) The holder of a gear or top up statutory fishing right who is engaged in commercial fishing in the Northern Prawn Fishery area:
 - (a) must use no more than 2 prawn trawl nets on the nominated boat for the fishing; and
 - (b) must not use, or have on board the boat, a prawn trawl net with an operational headrope length that is greater than half of the operational headrope length that the gear or top up statutory fishing rights nominated for the boat allow the holder to use (the ***maximum operational headrope length***).
- (3) However, the holder may also use 1 try net.
- (4) Also, the holder may have on board the boat a prawn trawl net with an operational headrope length that is greater than the maximum operational headrope length if:
 - (a) the holder is carrying the net on a trip through the Northern Prawn Fishery area and does not intend to use the net for fishing on the trip; and
 - (b) the holder has notified AFMA in writing of carriage of the net before the trip; and

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- (c) the net is stowed securely during the trip.
- (5) In addition, the holder of a top up statutory fishing right must not use on the boat a combination of prawn trawl nets that have a combined operational headrope length that is greater than 30 metres.

Note See s 22 and 95 of the Act about conditions of statutory fishing rights.

23A Obligations on holders of fishing permits (Act s 17 (6))

The holder of a fishing permit in force for the Northern Prawn fishery must:

- (a) comply with any relevant direction given under section 25; and
- (b) make sure that a boat to which the permit applies does not receive prawns or by-catch taken by another boat, unless each container of the prawns or by-catch has attached to it a written statement, capable of being read on its arrival at a processing plant, showing:
 - (i) the unique identifier for the boat that took the prawns or by-catch; and
 - (ii) the date when the prawns or by-catch were taken; and
 - (iii) the date when the container was received on the boat; and
- (c) make sure that the boat is not used for fishing unless:
 - (i) it is fitted with a VMS that is operating continuously; or
 - (ii) AFMA has given written permission for the boat to be used without a VMS that operates continuously; and
- (d) comply with all other conditions to which the fishing permit is subject.

Note See s 32 and 95 of the Act about conditions of fishing permits.

23B Election about holding gear statutory fishing rights

- (1) This section applies if a person:
 - (a) is the holder of a gear or top up statutory fishing right; and
 - (b) is also the holder of a Class B statutory fishing right.
- (2) The person may elect:
 - (a) to hold the gear or top up statutory fishing right in relation to the Class B statutory fishing right; or
 - (b) not to hold the gear statutory fishing right in relation to that, or any other, Class B statutory fishing right.
- (3) The holder may make or change an election by written notice to AFMA.

24 When Class B statutory fishing rights cease to be in force

- (1) If the number of gear or top up statutory fishing rights held in relation to a Class B statutory fishing right is reduced to fewer than 100, the Class B statutory fishing right ceases to be in force.
- (2) However, if subsection (3) applies, the Class B statutory fishing right does not cease to be in force.

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- (3) This subsection applies if, immediately before the day on which gear and top up statutory fishing rights become available for grant, the holder of a surplus Class B statutory fishing right also holds fewer than 100 old surplus or suspense Class A statutory fishing rights in relation to the surplus Class B statutory fishing right.

24A When top up statutory fishing rights cease to be in force

A top up statutory fishing right ceases to be in force if the person to whom it is granted does not continue to be the holder of an active Class B statutory fishing right.

25 Directions by AFMA — subsection 17 (5A) of the Act and paragraph 5 (a)

- (1) AFMA may direct that fishing is not to be engaged in the Northern Prawn Fishery, or a particular part of the Northern Prawn Fishery, during a particular period or periods.

Note Subsection 17 (5B) of the Act provides that a direction under paragraph 17 (5A) (a) of the Act “in relation to a part of the fishery may identify the part concerned in any way or ways, including by reference to a particular area, a particular species or type of fish, a particular kind or quantity of fishing equipment, a particular method of fishing, or any combination of the above.”.

- (2) AFMA must give each holder of a statutory fishing right or a fishing permit for the Northern Prawn Fishery notice of the direction.
- (3) Before AFMA issues a direction, it must consult with the Northern Prawn Fishery Management Advisory Committee about the content of the direction unless the direction is issued in circumstances of emergency.
- (4) AFMA must notify each holder of a statutory fishing right or a fishing permit for the Northern Prawn Fishery of the content of a direction at least 7 days before the direction takes effect unless a direction is issued in circumstances of emergency.
- (5) For the purposes of paragraph 17 (6) (g) of the Act, the holder of a statutory fishing right or a fishing permit for the Northern Prawn Fishery is obliged to comply with a direction.

Note The holder of a statutory fishing right or a fishing permit must comply with obligations imposed under paragraph 17 (6) (g) of the Act: see sections 22 and 95 of the Act.

26 Transfer of a statutory fishing right

- (1) The owner of a Class B or gear statutory fishing right may apply to AFMA for approval to transfer the statutory fishing right to another person.

Note The Register of Statutory Fishing Rights kept by AFMA for the Northern Prawn Fishery includes information about the owner of a statutory fishing right.

- (2) An application must be made in the approved form and be accompanied by the certificate for the fishing right.
- (3) AFMA must not approve the transfer of a statutory fishing right:

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- (a) unless it determines each application for registration of an interest in the fishing right received by AFMA before the application for transfer; and
 - (b) without the written consent of each person registered as having an interest in the fishing right.
- (4) If the application complies with this plan, the Act and any conditions to which the grant of the fishing right is subject, AFMA must:
- (a) cancel the owner's registration; and
 - (b) amend the certificate accordingly; and
 - (c) register the transferee as the owner of the fishing right.

Note 1 A statutory fishing right may be suspended, cancelled or surrendered — see sections 38 and 39 and subsection 22 (6) of the Act, respectively.

Note 2 Paragraph 22 (4) (a) of the Act provides that transferability of a statutory fishing right is subject to conditions (if any) specified in the original certificate.

27 Expiry of statutory fishing rights

A statutory fishing right ceases to be in force if it is surrendered under subsection 22 (6) of the Act or cancelled by AFMA under section 39 of the Act.

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Part 3 Miscellaneous**28 Certificates**

Before a certificate for a statutory fishing right is amended or a replacement certificate is issued:

- (a) the superseded certificate must be surrendered to AFMA; or
- (b) if the certificate has been given to AFMA under subsection 19 (1), 21 (3) or 26 (2) — a statement to that effect must be made to AFMA; or
- (c) if the certificate is not available — the holder must give AFMA a written reason for the unavailability of the certificate and an undertaking, signed by the holder, to the effect that the holder will immediately surrender the certificate to AFMA if it becomes available.

29 Delegation

AFMA may, by writing under its common seal, delegate any of its powers and functions under this plan (except its powers under section 25) to an officer of AFMA.

Note See subs 17 (11) of the Act about delegation of powers.

30 Reconsideration of decisions by AFMA and Administrative Appeals Tribunal

The provisions of section 165 of the Act apply to a decision:

- (b) under subsection 17 (5) to cancel a person's registration as an eligible person for the grant of a statutory fishing right; and
- (c) under subsection 26 (4) that an applicant has not complied with this plan, the Act and any conditions to which the grant of a fishing right is subject;

as if the decision were a relevant decision within the meaning of that section.

31 Leasing arrangements

If the holder of a statutory fishing right leases the statutory fishing right, he or she must inform AFMA, in writing, accordingly.

Note See s 46 of the Act for requirements about registering a dealing that is to have the effect of creating, assigning, transferring, transmitting or extinguishing an interest in a fishing right.

32 Agents

- (1) If the owner or holder of a statutory fishing right appoints a person to be the owner's or holder's agent for a matter to which this Plan applies, the owner or holder must give AFMA a notice, in writing, that states:

- (a) the name of the agent; and

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- (b) the powers that may be exercised by the agent.
- (2) Notice given under this clause must be accompanied by the instrument, or a certified copy of the instrument, by which the owner or holder appointed the agent.
- (3) AFMA is entitled to rely on a notice given under this clause for the purposes of making a decision and is under no duty to verify by other means the authority of the agent to make the application.

33 Notice in writing

- (1) A notice required or permitted by this plan to be given in writing to a holder:
 - (a) must be delivered to the residential or office address, or posted to the postal address, shown for the holder in the Register; and
 - (b) is taken to have been received by that person on delivery at that address or at 5.00 p.m. on the fifth working day after the day of posting, whichever first occurs.
- (2) A notice required or permitted by this plan to be given in writing to AFMA must be addressed to the Managing Director of the Australian Fisheries Management Authority, and
 - (a) delivered to the reception desk at:
 - John Curtin House
 - 22 Brisbane Avenue
 - BARTON ACT; or
 - (b) posted to:
 - Box 7051,
 - Canberra Mail Centre,
 - ACT 2610; or
 - (c) delivered or posted to any other office or postal address notified by the Managing Director of the Australian Fisheries Management Authority, by notice in writing published in a newspaper circulating in the State or Territory in which the address is located.

34 Notification by fax

- (1) Despite subsection 33 (1), a notice required or permitted by this plan to be given in writing to a person may be faxed to the fax number shown for that person in the Register.
- (2) A notice required or permitted by this plan to be given in writing to AFMA may be faxed to (02) 6272 4614 or any other fax number notified by the Managing Director of the Australian Fisheries Management Authority, by notice published in a newspaper circulating nationally.
- (3) A fax is taken to have been received:
 - (a) if it was transmitted between 9.00 a.m. and 4.00 p.m. on any working day — 1 hour after the time of transmission; and

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- (b) if it was transmitted after 4.00 p.m. on any working day but before 9.00 a.m. on the next working day — at 9.00 a.m. on the next working day.

35 Transitional

- (1) Subclauses 14.1 and 14.2 of the Northern Prawn Fishery Management Plan 1995 as in force immediately before the commencement of this section continue to apply in relation to a person, who is the holder of the applicable number of old Class A statutory fishing rights for a boat, during the period that:
 - (a) starts at the commencement of this section; and
 - (b) ends when the gear statutory fishing rights granted to the person under that plan as amended by this Plan take effect.

Note Subclauses 14.1 and 14.2 were omitted by the *Northern Prawn Fishery Amendment Management Plan 1999*.

- (2) However, this section ceases to apply to the person if:
 - (a) the person ceases to be the holder of the applicable number of old Class A statutory fishing rights; or
 - (b) at the end of the period specified in a notice under section 24 of the Act within which interested persons may apply to be registered as eligible persons for the grant of gear statutory fishing rights, the person has not applied to be so registered; or
 - (c) AFMA has decided not to register the person as an eligible person for the grant of gear statutory fishing rights and has notified the person of that decision under subsection 26 (3) of the Act; or
 - (d) the person's registration as an eligible person for the grant of gear statutory fishing rights is cancelled under subsection 17 (5).

Schedule 1 **Area of the Northern Prawn Fishery**

(subsection 3 (1))

Area of the Northern Prawn Fishery

1. If, for the purposes of this plan of management, it is necessary to determine the position on the surface of the Earth of a point, line or area:
 - (a) that position must be determined by reference to the Australian Geodetic Datum, that is by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378.160 metres and flattening of 1/298.25 and by reference to the Johnston Geodetic Station in the Northern Territory of Australia; and
 - (b) the Johnston Geodetic Station in the Northern Territory of Australia; must be taken to be situated at Latitude 25° 56' 54.5515" South and at Longitude 133° 12' 30.0771" East and to have a ground level of 571.2 metres above the spheroid referred to above.

2. The area of the Northern Prawn Fishery is that part of the Australian fishing zone adjacent to the coastal waters from low water of Western Australia, Northern Territory and Queensland bounded by a line:
 - (a) commencing at the intersection of the north-western shore of Australia by the meridian of Longitude 126° 58' East;
 - (b) running then north along that meridian to its intersection by the outer limit of the Australian fishing zone;
 - (c) then generally easterly along that outer limit to its intersection by the meridian of Longitude 141° 20' East;
 - (d) then south along that meridian to its intersection by the parallel of Latitude 10° 28' South;
 - (e) then east along that parallel to its intersection by the meridian of Longitude 142° 09' East;
 - (f) then south along that meridian to its intersection by the northern shore of Australia; and
 - (g) then generally westerly along the northern shore of Australia to the point of commencement.

Table of Instruments

Notes to the *Northern Prawn Fishery Management Plan 1995*

Note 1

The *Northern Prawn Fishery Management Plan 1995* (in force under subsection 17 (1) of the *Fisheries Management Act 1991*) as shown in this compilation is amended as indicated in the Tables below.

Table of Instruments

Title	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
1995 No. NPF 01	10 Feb 1995	10 Feb 1995 (see s. 2 and <i>Gazette</i> 1995, No. S49)	
1999 No. NPF 02 (a)	8 Nov 1999	8 Nov 1999 (see <i>Gazette</i> 1999, No. S530)	—
2001 No. NPF 03 (a)	12 Nov 2001	12 Nov 2001 (see <i>Gazette</i> 2001, No. S463)	—

(a) 1999 No. NPF 02 and 2001 No. NPF 03 were made under subsection 20 (1) of the *Fisheries Management Act 1991*.

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 1.....	rs. 1999 No. NPF 02
S. 3.....	am. 1999 No. NPF 02; 2001 No. NPF 03
Note to s. 3 (2).....	am. 2001 No. NPF 03
S. 3A	ad. 1999 No. NPF 02
S. 4.....	rs. 1999 No. NPF 02
Ss. 5, 6.....	am. 1999 No. NPF 02
S. 7.....	rs. 1999 No. NPF 02; 2001 No. NPF 03
S. 7A	ad. 2001 No. NPF 03
S. 8.....	rs. 1999 No. NPF 02
Ss. 9, 10.....	rep. 1999 No. NPF 02
Ss. 12–14	rs. 1999 No. NPF 02
S. 14A	ad. 1999 No. NPF 02
Ss. 15, 16	rs. 1999 No. NPF 02
Ss. 16A, 16B	ad. 1999 No. NPF 02
S. 17.....	rs. 1999 No. NPF 02
Ss. 17A–17C	ad. 1999 No. NPF 02
S. 18.....	rep. 1999 No. NPF 02
S. 19.....	rs. 1999 No. NPF 02
S. 19A	ad. 1999 No. NPF 02
S. 20.....	rep. 1999 No. NPF 02
S. 21.....	am. 1999 No. NPF 02
S. 22.....	am. 1999 No. NPF 02; 2001 No. NPF 03
S. 23.....	rep. 1999 No. NPF 02
Ss. 23A, 23B	ad. 1999 No. NPF 02
S. 24.....	rs. 1999 No. NPF 02
S. 24A	ad. 1999 No. NPF 02
Notes to s. 25 (1), (5)	am. 2001 No. NPF 03
S. 26.....	am. 1999 No. NPF 02
Notes 1, 2 to s. 26 (4).....	am. 2001 No. NPF 03
Ss. 27–29	am. 1999 No. NPF 02
Note to s. 29.....	rs. 1999 No. NPF 02
S. 30.....	am. 1999 No. NPF 02
Note to s. 31.....	ad. 1999 No. NPF 02
Ss. 32–34	am. 1999 No. NPF 02
S. 35.....	ad. 1999 No. NPF 02
Schedule 1	rep. 1999 No. NPF 02
Heading to Schedule 2	rs. 1999 No. NPF 02