



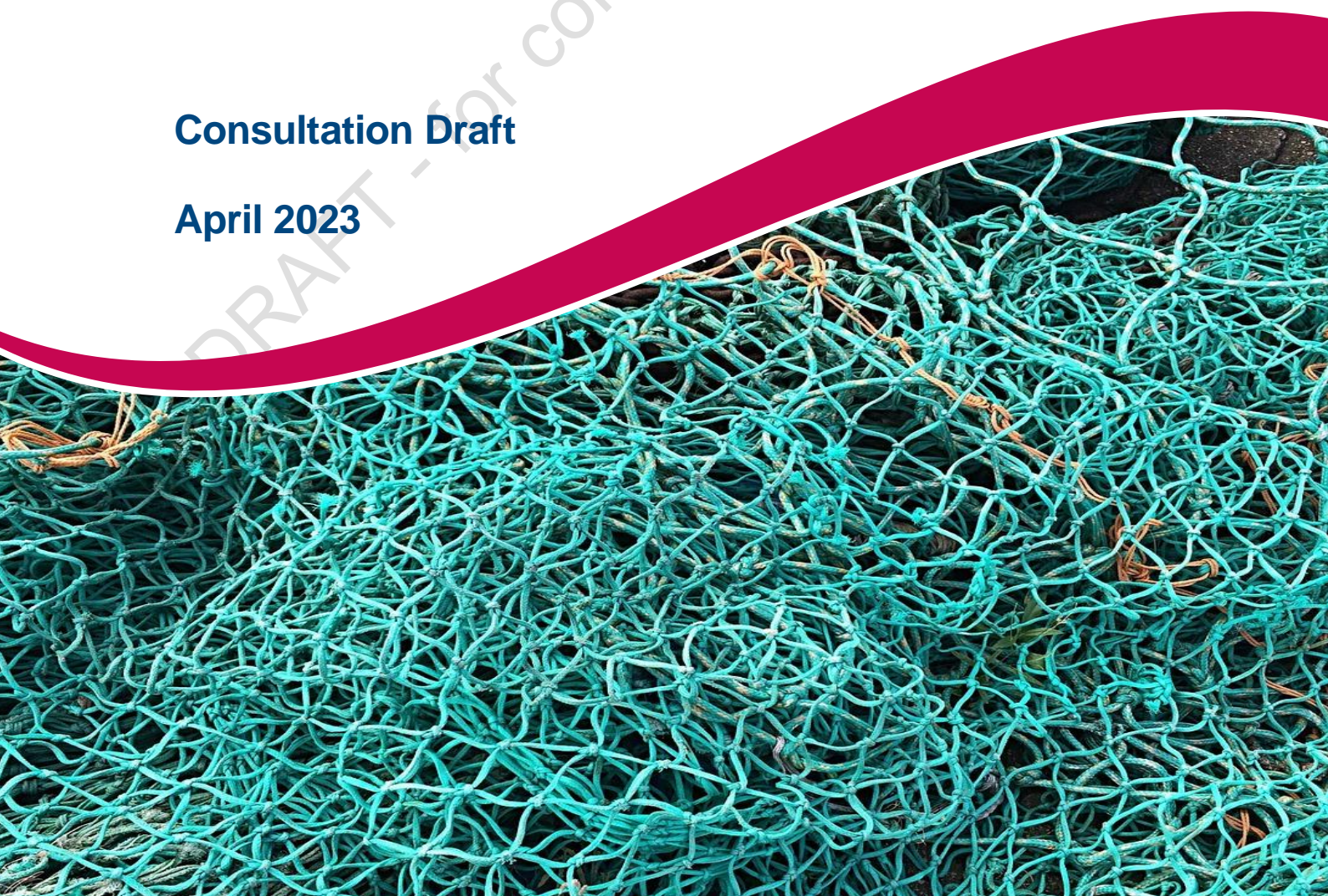
**Australian Government**

**Australian Fisheries Management Authority**

# **Draft Northern Prawn Fishery Management Plan with proposed amendments tracked**

**Consultation Draft**

**April 2023**



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## Use of this document

This version of the Plan is purely provided for information to assist understanding of the proposed amendments. While every effort has been made to provide an accurate account of the proposed amendments, the Australian Fisheries Management Authority does not guarantee, and accepts no legal liability, for the accuracy, reliability, currency or completeness in this document. It should be read alongside the draft *Northern Prawn Fishery Management Amendment (2023 Measures No. 1) Plan 2023*.

It should not be used for management nor to determine concession holder obligations in the fishery. The final amendments to the NPF Management Plan will be dependent upon the content of the final amending instrument, when determined by the AFMA Chief Executive Officer, accepted by the Minister, and registered on the Federal Register of Legislation (FRLI). A compilation of the NPF Management Plan will be published on [legislation.gov.au/Series/F2005B02455](https://legislation.gov.au/Series/F2005B02455).

### Formatting

Text proposed for inserting is red / text proposed for removing is struck through / text that has been proposed for removing and is now proposed to remain is struck through and orange. Additional information about the proposed amendments is contained in blue text boxes.

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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 [see Note 1]

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

**For information:** this section was updated to ensure that the definitions remain relevant to terms in the updated Management Plan and will also remain consistent with the *Fisheries Management Act 1991*

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) AFMA;
- (b) Australian fishing zone;
- (c) fish;
- (d) officer;
- (e) Register;
- (f) statutory fishing right.

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 for the Northern Prawn Fishery, 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).

*boat statutory fishing right* means a statutory fishing right described in section 11.

~~*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.~~

*bycatch strategy* means a strategy 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.~~

*Collecting broodstock* means collecting live prawns for aquaculture operations.

*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.~~

*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.

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

*Northern Prawn Fishery* means commercial fishing in the Northern Prawn Fishery area for any of the following:

- (a) any species of prawns (including penaeid and carid prawns);
- (b) scampi;
- (c) bugs;
- (d) scallops;
- (e) any species of squid, only if using a prawn trawl apparatus.

*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.

*otter board* means a board or plate used on a fishing net which, when the net is being towed, keeps the mouth of the net open.

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

*quad trawl net configuration* means the use of 4 prawn trawl nets designed or intended to be towed simultaneously by a boat and having the mouth or opening of each net being controlled by the use of otter boards.

~~*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.~~

*triple trawl net configuration* means the use of 3 prawn trawl nets designed or intended to be towed simultaneously by a boat and having the mouth or opening of each net being controlled by the use of otter boards.

*twin tongue trawl net configuration* means the use of 2 prawn trawl nets designed or intended to be towed simultaneously by a boat and having the mouth or opening of each net being controlled by otter boards and at least one bridle extending from each warp wire to the centre or “tongue” of the headrope of each net.

*twin trawl net configuration means* the use of 2 prawn trawl nets designed or intended to be towed simultaneously by a boat and having the mouth or opening of each net being controlled by the use of otter boards.

*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.

*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
- (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 **the same as the objectives set out in section 3 of the Act.** ~~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

**For information:** updated to outdated references to the Fisheries Management Act are removed and that the measures to achieve the management plan objectives are better reflected and more consistent with other Commonwealth fisheries

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
  - (aa) developing and implementing a harvest strategy for 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 **and delivering** 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
  - (ea) developing and implementing a data collection and usage strategy for the Northern Prawn Fishery; and**
  - (f) collecting **and validating** 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~~

- (g) monitoring and analysing the impact of catching operations in the fishery on ecologically related species and the marine environment in the Northern Prawn Fishery area, and implementing any practical measures that are necessary to minimise the impact of those operations on those species and that environment; and
- (h) developing and implementing a ~~by-catch action plan~~ bycatch strategy.

## 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

**For information:** The updates to this section better define a gear statutory fishing right, includes the correct number of gear statutory fishing rights in the fishery, and updates the default operational headrope length per gear statutory fishing right to be consistent with the current fishing capacity determination

- ~~(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, for each method mentioned in the determination:~~
- ~~(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.~~
- (1) A gear statutory fishing right is a right to use prawn trawl nets in the Northern Prawn Fishery, in a twin, twin tongue, triple or quad trawl net configuration, with an operational headrope length and operational footrope length (measured when the rope is taut) calculated in accordance with this section.
- (2) If a determination is in force under section 7A, the operational headrope length per gear statutory fishing right, for fishing using a particular net configuration, is calculated by dividing the total length of operational headrope specified in the determination for that net configuration by 35,479.
- (3) If no determination is in force under section 7A, the operational headrope length per gear statutory fishing right is:
- (a) for fishing using a twin trawl net configuration—9 centimetres; or
- (b) for fishing using a twin tongue trawl net configuration, triple trawl net configuration or quad trawl net configuration—8.1 centimetres.
- (4) The operational footrope length per gear statutory fishing right is the operational headrope length worked out under subsection (2) or (3) multiplied by 1.15.

#### 7A Determination of fishing capacity

- (1) AFMA may determine:
- (a) one or more methods by which prawn trawl nets may be used in the Northern Prawn Fishery; and

- (b) for each method so determined — the total length of operational headrope that may be used under gear statutory fishing rights when that method is employed in the Northern Prawn Fishery.

*Note* A determination under this section is a legislative instrument ~~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).
- (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 Boat may be nominated in relation to gear statutory fishing rights

**For information:** Clause inserted to clarify that with the removal of the 100 gear SFR nomination that operators can, but are not required to, have these nominated to a boat. However, as per section 14 – the appropriate number of gear SFRs will need to be nominated to a vessel for the gear that is being used to operate in the fishery.

- (1) The holder of a gear statutory fishing right may, but is not required to, nominate a boat in relation to the gear statutory fishing right.

*Note:* A boat must be nominated for a person to be permitted to fish in the Northern Prawn Fishery: see section 14.

- (2) The holder may make or change a nomination by written notice to AFMA.

## 8 ~~Top up statutory fishing rights~~

**For information:** Top-up and Class B statutory fishing rights: will no longer be relevant to the fishery.

- ~~(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 Boat statutory fishing rights

**For information:** Facilitates the name change from Class B to 'boat SFR'. It has been worded in such a way that there is no 'grant' involved – just essentially noting the updated terminology. Transitional provisions have been included under section 34.

- (1) A boat statutory fishing right is a right to use a nominated trawl boat in the Northern Prawn Fishery.

### ~~11 Class B statutory fishing rights~~

- ~~(1) 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~~

- ~~(1) 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~~

- ~~(1) 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*.~~

## 14 Who may fish commercially in the Northern Prawn Fishery area?

**For information:** This change provides a more appropriate section that ensures that those who can fish in the fishery are correctly and simply defined.

- (1) A person may fish in the Northern Prawn Fishery if:
  - (a) the person is, or is acting for, the holder of a boat statutory fishing right; and
  - (b) the person is using a trawl boat nominated for the boat statutory fishing right; and
- (c) the boat is also nominated for at least 1 gear statutory fishing right; and
  - (d) the person is using prawn trawl nets that, in combination (except for a try net), have an operational headrope length and operational footrope length that is not greater than the operational headrope length and

operational footrope length that the gear statutory fishing rights the boat is nominated for allow the person to use.

- (2) A person may fish in the Northern Prawn Fishery if:
- (a) the person is, or is acting for, the holder of a fishing permit for collecting broodstock from the Northern Prawn Fishery area; and
  - (b) the permit authorises the holder to engage in commercial fishing in the Northern Prawn Fishery area; and
  - (c) the boat the person is using is nominated for at least 1 gear statutory fishing right; and
  - (d) the person is using prawn trawl nets that, in combination (except for a try net), have an operational headrope length and operational footrope length that is not greater than the operational headrope length and operational footrope length that the gear statutory fishing rights the boat is nominated for allow the person to use.

~~(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:
 
  - ~~(i) a scientific permit for the Northern Prawn Fishery; or~~
  - ~~(ii) a fishing permit for collecting broodstock from the Northern Prawn Fishery area; and~~~~
- ~~(b) the permit authorises the holder to engage in commercial fishing in the Fishery area.~~

~~(4) 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) if:~~
  - ~~(a) the person is using a method for trawling mentioned in a determination in force under subsection 7A (1); and~~
  - ~~(b) the person is 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

- (1) 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
  - (b) the person is, or is acting for, the holder of **a boat statutory fishing right** ~~a Class B statutory fishing right for which a boat is nominated.~~

#### 15 Maximum number of statutory fishing rights

**For information:** This change will reflect the number of gear and boat statutory fishing rights that are held in the fishery.

- (1) AFMA must make sure that, at any one time:
  - (a) no more than **35,479** ~~53,844~~ gear statutory fishing rights are in force; and
  - (b) no more than ~~132~~ Class B **52** boat statutory fishing rights are in force.

#### 15A Maximum number of fishing permits for collecting broodstock

- (1) AFMA must not allow more than 3 fishing permits for collecting broodstock from the Northern Prawn Fishery area to be in force at a time.

#### 16 Registration of eligible persons (Act s 26)

**For information:** Sections 16-17B: Updated, as appropriate, to remove certain redundant sections of the Plan that applied transitional arrangements during the implementation of the original Plan, while ensuring the legislative requirements of the Act are maintained (there is a requirement to have a section regarding the 'grant' of SFRs and eligible person). This has been done consistently with the approach taken in other Commonwealth fisheries

- ~~(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.~~

##### 1) In this section:

***notice period***, for a kind of statutory fishing right for the Northern Prawn Fishery, means the period specified in a notice published in relation to statutory fishing rights of that kind under section 24 of the Act.

- (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 **holder of a gear statutory fishing right immediately before the end of the notice period**. ~~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 Grant of 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 ~~right for the Northern Prawn Fishery~~, AFMA must **make a grant of the fishing right available** ~~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 **available grant** ~~provisional grant~~ is 1 gear statutory fishing right for **each gear statutory fishing right held by the person** ~~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 a provisional grant also includes the number of top up statutory fishing rights worked out using the formula:~~

$$300 - n;$$

~~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 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 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.~~~~

#### **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 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 **right for the Northern Prawn Fishery.**



## 22 Obligations on the holders of fishing concessions

- (1) The holder of a statutory fishing right **for the Northern Prawn Fishery** must:
  - (c) give to AFMA any biological, economic and technical data available to the holder if AFMA requests it; 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~~
  - (ea) comply with any bycatch strategy; and**
  - (f) comply with all other conditions to which the statutory fishing right is subject; and
  - (g) if the boat that is **nominated for the holder's boat statutory fishing right** ~~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~~ **boat** 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.
- (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 not use, for the method being employed, prawn trawl nets having an operational headrope length, in total, greater than that allowed by the gear ~~or top up~~ statutory fishing rights nominated for the boat; 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
  - (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))

**For information:** While subsection (1) of section 23A was proposed for repeal and is crossed out – this subsection is **now proposed to be retained** as it relates to carrier permit requirements.

- ~~(1) The holder of a fishing permit, other than a holder to whom subsection (2) applies, in force for the Northern Prawn fishery must:~~
  - ~~(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.~~
  - ~~(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.~~

- ~~(2) The holder of a fishing permit for collecting broodstock from the Northern Prawn Fishery area must:~~
  - ~~(b) not undertake any fishing activity, other than collecting broodstock, when fishing in the area under the permit; and~~
  - ~~(c) not retain on board any prawns other than live prawns when collecting broodstock; and~~
  - ~~(e) comply with all other conditions to which the fishing permit is subject.~~

## 23B Election about holding gear statutory fishing rights

**For information:** Sections 23B-24A: the transitional arrangements during the implementation of the Plan were removed as they are now redundant.

- ~~(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.~~
- ~~— (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.~~

DRAFT - for consultation only

## Part 3 Miscellaneous

### 29 Delegation

**For information:** This has been removed as it is not required or relevant, delegations are made under the *Fisheries Management Act 1991*.

~~AFMA may, by writing under its common seal, delegate any of its powers and functions under this plan 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

**For information:** Redundant as section 17 has been removed.

~~The provisions of section 165 of the Act apply to a decision under subsection 17 (5) to cancel a person's registration as an eligible person for the grant of a statutory fishing right as if the decision were a relevant decision within the meaning of that section.~~

### 32 Agents

- (1) If the owner or holder of a statutory fishing right **for the Northern Prawn Fishery** 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
  - (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 Notices in writing

**For information:** Updated to reflect current contact details for AFMA and remove detail that is covered under other legislation (i.e. when a notice is taken to be received).

- (1) A notice required or permitted by this Plan to be given in writing to a holder of a statutory fishing right must be sent to the holder using one of the contact particulars (such as postal address or email address) stated for the holder in the Register.
- (2) A notice required or permitted by this Plan to be given in writing to AFMA must be addressed to the Manager, Licensing and Quota Management, Australian Fisheries Management Authority, and:
  - (a) delivered to any of the offices of AFMA; or

- (b) posted to:
  - Box 7051
  - Canberra BC
  - Canberra ACT 2610; or

(b) sent by email to [licensing@afma.gov.au](mailto:licensing@afma.gov.au).

- ~~(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 Manager, Licensing and Quota Management, Australian Fisheries Management Authority, and:
 
  - ~~(a) delivered to the reception desk at:
 
    - Level 6
    - 73 Northbourne Avenue
    - Canberra 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 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) 6225 5426 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~~
  - ~~(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.~~~~

### **345 Transitional – Statutory Fishing Rights**

**For information:** Updated provisions to allow for the transition from Class B SFRs to boat SFRs. As such a re-grant process will not be needed upon the relabelling of these rights.

(1) In this section:

*amending instrument* means the *Northern Prawn Fishery Management Amendment (2023 Measures No. 1) Plan 2023*.

*old Plan* means this Plan as in force immediately before its amendment by the amending instrument.

- (2) A Class B statutory fishing right, within the meaning of the old Plan, is taken on and after the commencement of the amending instrument to be a boat statutory fishing right.
- (3) If, immediately before the commencement of the amending instrument, a gear statutory fishing right was held in relation to a Class B statutory fishing right, the boat nominated for the Class B statutory fishing right under the old Plan is taken on and after the commencement of the amending instrument to be the boat nominated in relation to the gear statutory fishing right.
- (4) The repeal and substitution of section 7 of this Plan by the amending instrument does not otherwise affect any interest in a gear statutory fishing right that exists immediately before the commencement of the amending instrument.

~~(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 the coastal waters and waters of the Australian fishing zone that lie within the area the boundary of which:
  - (a) commences at the intersection of the north-western shore of Australia by the meridian of longitude 126° 58' East;
  - (b) then runs 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 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.