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FISH RESOURCES MANAGEMENT ACT 1994
WEST COAST ROCK LOBSTER MANAGEMENT PLAN
AMENDMENT (NO. 5) 2009

FD 1064/01 [929]

Made by the Minister under section 54.

1. Citation

This instrument is the *West Coast Rock Lobster Management Plan Amendment (No. 5) 2009*.

2. Management plan amended

The amendments in this instrument are to the *West Coast Rock Lobster Management Plan 1993*.

3. Clause 2 amended

Clause 2 is amended by—

- (a) inserting in the appropriate alphabetical position the following definition—
“**designated rock lobster pot soaking area**” means an area of water that is approved under clause 8A;”;
- (b) deleting the definition of “operate” and inserting instead—
“**operate**” means operate in connection with the taking of rock lobster and includes—
 - (a) carrying, soaking, baiting, setting or pulling a pot; and
 - (b) leaving or allowing a pot to remain in the waters of the Fishery,
but does not include carrying not more than two unbaited and unrigged pots;”;
- (c) deleting the definition of “pot” and inserting instead—
“**pot**” means a rock lobster pot as defined in the regulations;”;
- (d) deleting the definition of “set” and inserting instead—
“**set**” means, in relation to a pot, to set, position or release a pot in the waters of the Fishery, with or without bait;”.

4. Clause 2A deleted

Clause 2A is deleted.

5. Clause 4A inserted

After clause 4 the following clause is inserted—

“Use of boats

4A. Subject to clause 16, a person must not use a boat in the Fishery unless the person is the holder of a licence, or a person acting for or on behalf of the holder of the licence, and the boat is the authorised boat under the licence.”.

6. Clause 5 amended

Clause 5 is amended by deleting “pots.” and inserting instead—

“pots which conform to the specifications set out in Part 2 of Schedule 13 to the regulations.”.

7. Clause 5A amended

Clause 5A is amended in subclause (1)(b) by deleting the reference to “rock lobster” in each place where it appears.

8. Clause 6 amended

Clause 6 is amended by deleting subclause (1b) and inserting instead—

“(1b) Subclause (1a) does not apply to—

- (a) carrying, baiting or setting a pot; or
- (b) leaving or allowing a pot to remain in the waters of the Fishery,

in accordance with clause 8.”.

9. Clause 8 amended

Clause 8 is amended—

- (a) in the heading by deleting “Soaking and baiting” and inserting instead—
“Carrying, baiting and setting pots”; and
- (b) by deleting subclause (1) and inserting instead—
“(1) A person must not carry a pot or bait a pot in a zone of the Fishery during the period commencing on 1 July in any year and ending on the day in November that is 7 days before the commencement of the season in that year.”; and
- (c) by deleting subclause (2) and inserting instead—
“(2) A person must not set a pot in a zone of the Fishery during the period commencing on 1 July in any year and ending on the day in November that is 2 days before the commencement of the season in that year.”; and
- (d) in subclause (3) by deleting “bait a pot” and inserting instead—
“set a pot”.

10. Clause 8A inserted

After clause 8 the following clause is inserted—

“Designated rock lobster pot soaking areas

8A. (1) The CEO may by notice published in the *Gazette* approve an area within the Abrolhos Islands area as a designated rock lobster pot soaking area for the purposes of this plan.

(2) The CEO may by notice published in the *Gazette* amend or revoke a notice under subclause (1).”.

11. Clause 9 replaced

Clause 9 is deleted and the following clause is inserted instead—

“Operation of zone A boats limited

9. (1) A person must not, in any season, from a boat licensed to be operated in zone A—

- (a) subject to subclause (2), operate within the Abrolhos Islands area from 15 November to 1930 hours on 14 March of that season; or
- (b) operate outside the Abrolhos Islands area—
 - (i) at any time from 1 March to 14 March of that season in any waters having a depth of less than 36.6 metres that are within 9 nautical miles of the high water mark of the mainland of the State; or
 - (ii) after 1930 hours on 14 March of that season.

(2) Subclause (1)(a) does not apply to—

- (a) soaking a pot in a designated rock lobster pot soaking area in the Abrolhos Islands area during the period commencing on 25 February and ending on 14 March in any year; or
- (b) pulling a soaked pot in a designated rock lobster pot soaking area in the Abrolhos Islands area from 0430 hours to 1930 hours on 13 March or 14 March of any year; or
- (c) baiting a pot on 13 March or 14 March of any year; or
- (d) setting a pot from 0600 hours to 1930 hours on 14 March of any year; or
- (e) leaving or allowing a pot to remain in the Abrolhos Islands area after 0600 hours on 14 March of any year.”.

12. Clause 9A replaced

Clause 9A is deleted and the following clause is inserted instead—

“Restrictions on fishing

9A.(1)(a) A person must not set or pull a pot in the waters of zone A of the Fishery on any Friday, Saturday or Sunday during the period commencing on 15 March and ending on 30 June in any year.

(b) A person must not set or pull a pot in the waters of zone B or C of the Fishery on any Saturday or Sunday during the relevant season.

(c) A person must not set or pull a pot in the waters of zone B of the Fishery on any Friday—

- (i) during the period commencing on 1 December and ending on 14 January in any season; or
- (ii) during the period commencing 15 March and ending on 14 April in any season.

(d) A person must not set or pull a pot in the waters of zone C of the Fishery on any Friday—

- (i) during the period commencing on 15 December and ending on 14 January in any season; or
- (ii) during the period commencing on 15 March and ending on 14 April in any season.

(2) Subclauses (1)(a) and (1)(b) do not apply to—

- (a) setting a pot in the waters of the Fishery after 0430 hours on any Sunday during a season that is on or before 31 March in that season; or

- (b) setting a pot in those waters of the Fishery that are less than 36.6 metres in depth after 0600 hours on any Sunday during the period commencing on 1 April and ending on 30 June in any year; or
 - (c) setting a pot in those waters of the Fishery that are 36.6 metres or more in depth after 0430 hours on any Sunday during the period commencing on 1 April and ending on 30 June in any year; or
 - (d) pulling an unbaited pot in a designated rock lobster pot soaking area in the waters of zone A of the Fishery on any Sunday during the period commencing on 15 March and ending on 30 June in any year.
- (3) A person must not operate in the waters of zone B of the Fishery at any time during the period commencing on 15 January and ending on 9 February in any year.
- (4) Subclause (3) does not apply to—
- (a) soaking a pot during the period commencing on 6 February and ending on 9 February in any year; or
 - (b) pulling a soaked pot or baiting a pot on 9 February in any year; or
 - (c) setting a baited pot between 0600 hours and 1930 hours on 9 February in any year; or
 - (d) leaving or allowing a pot to remain in the waters of zone B of the Fishery after 0600 hours on 9 February in any year.
- (5) Despite subclause (2)(a), a person must not set or pull a pot in the Fishery on 25 December or 1 January in any year.”.

13. Clause 9F replaced

Clause 9F is deleted and the following clause is inserted instead—

“Exceptions to restrictions on the use of boats—unloading rock lobster

9F. (1) Subclauses 9E(3)(b) and (c) do not apply in respect of—

- (a) a zone A boat during the first 10 hours of any period to which clauses 9A(1)(b), 9A(1)(c), 9A(3) and 9A(5) apply where the boat is kept securely moored or anchored within half a nautical mile of the mainland or the Abrolhos Islands;
- (b) a zone A boat during any period to which clause 9A(1)(a) applies where the boat is kept securely moored or anchored within half a nautical mile of the mainland or the Abrolhos Islands;
- (c) a zone B or C boat during the first 10 hours of any period to which clauses 9A(1), 9A(3) or 9A(5) apply where the boat is kept securely moored or anchored within half a nautical mile of the mainland.

(2) Subclauses 9E(1), 9E(3)(b) and 9E(3)(c) do not apply in respect of a zone A boat during any period to which clause 9A(1)(a) applies where the boat is being used solely for the purpose of unloading rock lobster onto a licensed carrier boat that is authorised to carry rock lobster under the terms of its licence.”.

14. Clause 9I amended

Clause 9I is amended by deleting subclause (2) and inserting instead—

“(2) Subclauses 9E(1) and 9E(4) do not apply in respect of a boat in the waters of the Fishery on any Sunday where the boat is being used to set pots in accordance with clauses 9A(2) and 9A(5).”.

15. Clause 14 replaced

Clause 14 is deleted and the following clause is inserted instead—

“Capacity of the Fishery

14. (1) Subject to clause 14A, the combined capacity of zones A and B of the Fishery during the period commencing on 15 November and ending on 14 March in any season is 13,359 pots.

(2) Subject to clause 14A, the capacity of zone A of the Fishery after 14 March in any season is 6,657 pots.

(3) Subject to clause 14A, the capacity of zone B of the Fishery after 14 March in any season is 5,962 pots.

(4) Subject to clause 14A, the capacity of zone C of the Fishery is 15,679 pots.”.

16. Clause 14I amended

Clause 14I is amended in subclause (4) by deleting “Senior Fisheries Officer” and inserting instead—

“regional manager, compliance manager or fisheries officer”.

17. Clause 21A replaced

Clause 21A is deleted and the following clause is inserted instead—

“Offences and major provisions

21A. (1) A person who contravenes a provision of—

- (a) clause 4, 4A, 5, 5A, 6, 7, 9A, 9C, 9E, 10, 12, 14I or 19(4); or
- (b) clause 8 or 16,

commits an offence and for the purposes of Section 75 of the Act the provisions described in subclause (a) are major provisions.

