



Information Paper:

New commercial fishery licensing and management arrangements commencing on 5 February 2007

The new share management plans for the Estuary General, Estuary Prawn Trawl, Ocean Hauling, Ocean Trap & Line and Ocean Trawl fisheries were gazetted on 15 December 2006. These plans, along with other major licensing and legislative changes, will take effect on 5 February 2007.

These reforms provide numerous benefits including:

1. improvements to fisher's security of access to the resource with the issue of final shares,
2. more flexible operating conditions through new transfer and fisher nomination rules,
3. reduced administration and the costs of some transactions,
4. the introduction of practical arrangements for fishers, like plastic card licences, and
5. providing a foundation to improve the viability of the NSW commercial fishing industry.

This information paper gives an overview of the new arrangements. It includes information on the changes to general licensing and management arrangements and the key changes to specific fisheries. The reforms have been made possible as a result of completing the fishery management strategies and associated environmental assessments. The plans include a facility to review the arrangements over time and respond as necessary, in consultation with the fisheries advisory bodies.

The changes focus on the new category 1 share management fisheries, but some necessary changes have also been made to the arrangements applying to the Abalone, Lobster, Southern Fish Trawl, Sea Urchin & Turban Shell and Inland commercial fisheries.

Persons with an interest in these arrangements should carefully consider the relevant plans and regulations before making any business or financial commitments. References to relevant legal instruments are included at the end of this document.

Enquiries about the new arrangements can be made by calling the NSW DPI Share Management Information Line on 1300 720 662.

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Fishing business cards and use of endorsements

New plastic fishing business cards

In the past, endorsements held by a fishing business were placed either on commercial fishing licences or boat licences. From now on, all endorsements of a business will appear on new fishing business cards issued to the owners of fishing businesses. This will make it quicker and easier for business owners to change the fishers they choose to work the endorsements of the business.

The fishing business cards (as well as the new commercial fishing licences and boat licences) are made from plastic so that they handle fishing conditions better than paper based cards and licences.

Please carefully check the condition codes on the back of each fishing business card. A list of condition codes with the full wording of the conditions is included in the information kit.

Note that if fishing business owners begin to trade in shares and their eligibility for endorsements changes as a result (eg. if they gain new endorsements or lose endorsements they had), NSW DPI will issue the owner with a replacement fishing business card.

Using the endorsements of a fishing business

To be authorised to work the endorsements of a business, a licence holder must be recorded by NSW DPI as the endorsed fisher for that business and must carry the fishing business card while fishing.

A fishing business owner who is also a licence holder will, by default, be recorded by NSW DPI as the person endorsed for the business. However, there are circumstances when this will not happen automatically, such as where the business is owned in a partnership or company name, or where the business owner has nominated another licensed fisher to operate the endorsements of the business.

A new streamlined process has been introduced to reduce the turn around time for changing endorsement holders for a fishing business. There are two vital steps:

- Step 1 - 'Eligible fishers' need to be registered against the fishing business (in general, this can be thought of as a list of potential nominated fishers); and
- Step 2 - One of the eligible fishers needs to be selected by the fishing business owner to hold the endorsements on behalf of the business.

Step 1 - Registering eligible fishers

To start with, NSW DPI has automatically registered current fishing business owners (who hold a licence), nominated endorsement holders and/or licensed skippers as 'eligible fishers' against the relevant fishing businesses.

There is no limit on how many eligible fishers can be registered for a business. There is also no limit on how many fishing businesses an eligible fisher may be registered against.

Changing the register of eligible fishers can be done at any time and at no cost. A form is included in the information kit for business owners who wish to add new licence holders to, or remove persons from, the register for their business.

A form will also be available so that eligible fishers can cancel their registrations without needing to get the business owner's consent. Forms can be obtained by contacting NSW DPI or downloaded from the website www.dpi.nsw.gov.au.

A person is not taken to be registered until such time as NSW DPI enters their details into the register and informs the relevant parties. Also, being on the register does not, by itself, authorise a person to work the endorsements of the business – they need to be recorded as the endorsed fisher for the business as per Step 2 below.

Step 2 – Selecting the endorsed fisher

The person authorised to operate the endorsements on behalf of a fishing business can be the owner of the business (if licensed) or another licensed fisher who is registered as an eligible fisher against the business and nominated by the owner. For a person to be lawfully endorsed to work the endorsements, the *business owner* must:

- (a) if the owner wants to operate the endorsements of the business himself or herself – make sure he or she is recorded by NSW DPI as the endorsed fisher for the business and carry the fishing business card while fishing; or
- (b) if the owner wants another person to operate the endorsements of the business – nominate one of the eligible fishers registered against the business to hold the endorsements. This can be done by completing the nomination form and submitting it to NSW DPI by fax, mail, or email (to the fax number or addresses included on the form). The business owner must also hand the fishing business card to the nominated fisher to carry while they are fishing and landing their catch.

If a fishing business owner nominates another person to operate the endorsements [as per (b) above] and later revokes the nomination, then the default position applies. That is, if the owner holds a commercial fishing licence he or she will automatically be recorded as the endorsement holder for the business. But if the owner does not hold a commercial fishing licence (eg. in the case of company ownership), then no-one will be taken to be endorsed until a new nomination is made. Nominating a new fisher automatically revokes a previous nomination.

There are a few important things to note regarding fishing business cards, endorsements and nominations:

- A nomination does not take effect until NSW DPI has received the nomination form and the fishing business card has been handed to the fisher. For this reason, it is preferable to send the form by fax or email so that it is received immediately and is valid outside of business hours (the fax machine and email system will record the exact time of its receipt). If sent by mail it may be subject to postal delays and the time of receipt cannot be recorded outside of business hours. It is your responsibility to make sure that NSW DPI has received the nomination form before the nominated fisher starts working;
- A minimum period of 48 hours applies to nominations. This means that once an eligible fisher is nominated, a further nomination cannot be made within 48 hours of the start of the first nomination. This prevents businesses from working 24 hours a day, 7 days a week;¹
- A person can be nominated to hold the same type of endorsement for two or more fishing businesses, but not if the endorsement is in the abalone or lobster fisheries (quota managed);
- NSW DPI officers who inspect commercial fishing activities will check to make sure that the fisher is carrying the fishing business card, the necessary commercial fishing and boat licences, and that the person is an eligible fisher who is recorded by NSW DPI as the endorsed fisher for that business;
- The rule that previously applied in the Estuary General and Estuary Prawn Trawl fisheries preventing nominations (ie. the owner-operator rule) no longer applies;
- Unlicensed and unendorsed fishing is a serious offence which attracts substantial penalties and can risk a person's future involvement in the industry.

A form for making and revoking nominations is included in the information kit. Additional forms can be obtained by contacting NSW DPI or downloaded from the website www.dpi.nsw.gov.au.

¹ Exceptions to the 48 hour minimum period may be approved on a case by case basis for industry members appointed to a MAC or the Seafood Industry Advisory Council (SIAC) while they are away from their home port fulfilling their advisory body duties.

Changes relating to commercial fishing licences

New plastic licences

Commercial fishing licences will now be issued on a plastic card that must be carried while fishing and landing the catch so that it can be produced for inspection by NSW DPI officers.

An application form for the issue of a new commercial fishing licence is available and can be obtained by contacting NSW DPI or downloaded from the website www.dpi.nsw.gov.au.

There has been no change to the fee payable for the issue or renewal of commercial fishing licences.

Classes of commercial fishing licence

Commercial fishing licences, together with the relevant endorsements or permits, authorise the taking of fish for sale from NSW waters. There are now three classes of commercial fishing licence available in NSW, instead of five. These are:

Class 1 - Available to persons who own a fishing business with endorsements in a share management or restricted fishery, who are nominated to hold endorsements on behalf of a fishing business owner, or who have applied to be registered as an 'eligible fisher' for a fishing business. Most fishers will hold a Class 1 licence.

Class 2 - Available to persons who also hold or have applied for a permit under section 37 of the Act authorising a commercial fishing activity, and to be used mainly to roll over the existing arrangements for fishers taking tuna bait for their own use.

Class 3 - Available to persons who require a licence to work as a crew member for a person who already holds a commercial fishing licence. At this stage class 3 licences are only required for crew working in the abalone and lobster share management fisheries (ie. this licence replaces the previous crew registrations in those fisheries).

Uniform expiry date

All commercial fishing licences have been automatically renewed and set to expire on 30 June 2008. From that point on, the expiry dates will remain aligned with the financial years. Because of the automatic renewal, licence renewal forms will not be needed until closer to July 2008 when the licences expire. NSW DPI will forward renewal forms to licence holders at that time. The standard annual fees payable for the licence will be collected as part of the 2007/08 invoicing process, and the fee will be calculated so that, overall, fishers will pay the same amount as they normally would over that period.

For example, if Fisher A held a licence that was due to expire on 29 March 2007, he would now hold a new plastic card licence with an expiry date of 30 June 2008. Fisher A will not receive a licence renewal form in the mail before March as in the past. Instead, Fisher A's renewal fee (and any other annual contributions payable) will be collected as part of the annual invoice that will be issued in July 2007. Fisher A's invoice will include the fees covering the full 2007/08 financial year period as well as the portion of this year's fees (ie. between 30 March and 30 June 2007) that had not been paid. Equally, if Fisher B held a licence that was due to expire after 30 June 2007, he will receive an appropriate deduction from the 2007/08 financial year fees when invoiced in July.

The fees for *issuing a new licence* stated in the section above (and any other annual contributions connected with the licence) will be scaled down if a licence is first issued for a period of nine months or less (eg. a licence issued in December and with an expiry date of 30 June the following year). If a licence is issued for a period from October in any year to 30 June the following year, only 75% of the fee will be payable; between January and June, only 50% will be payable; and between April and June, only 25% will be payable. Equally, if a new licence is first issued between now and 1 July 2007, because the licence would be issued for a period longer than 12 months (ie. with a 30 June 2008 expiry), the amount payable would be the full 2007/08 fees plus a portion of this year's fees calculated using the same percentages.

Please note that licence issue and renewal fees are not refundable if a licence is suspended or cancelled for any reason before the expiry date on the licence.

Late licence renewal

If, in 2008 and beyond, an application for renewal of a commercial fishing licence is received after the expiry date on the licence, it may be treated as an application for the issue of a new licence and a higher licence fee will apply.

Grounds to refuse the issue or renewal, or suspend or cancel, commercial fishing licences

Some additional grounds have been introduced to refuse the issue or renewal, or suspend or cancel, commercial fishing licences that are consistent in nature with existing grounds.

Issue of a commercial fishing licence may be refused if the applicant: makes a statement in connection with the application that is found to be false or misleading; has held a commercial fishing licence that is suspended or has been cancelled; has been found guilty of an offence against the *Marine Parks Act 1997* or the regulations under that Act; or, has been required to forfeit shares.

Renewal of a commercial fishing licence may be refused if: the application is received after the licence expiry date; the applicant makes a statement in connection with the application that is found to be false or misleading; the applicant has been found guilty of an offence against the *Marine Parks Act 1997* or the regulations under that Act; or the applicant has been required to forfeit shares.

A commercial fishing licence may be suspended or cancelled if the holder of the licence: requests in writing that it be suspended or cancelled; has not paid any fee due and payable in connection with a licence; or, has been found guilty of an offence against the *Marine Parks Act 1997* or the regulations under that Act.

Changes relating to the licensing and use of fishing boats

New plastic licences

Commercial fishing boat licences will now be issued on a plastic card. If using a boat, the fisher must carry the plastic licence while fishing and landing the catch so that it can be produced for inspection by NSW DPI officers.

A new application form for the issue of fishing boat licences is available and can be obtained by contacting NSW DPI or downloaded from the website www.dpi.nsw.gov.au.

There has been no change to the fees payable for the issue or renewal of these licences.

The front of the fishing boat licence shows the owners' details, licence expiry date, the maximum boat specifications and in some cases one or more 'exemption code'. [For information on exemption codes and maximum boat specifications, please refer to the information below under the headings; "Using fishing boats in NSW managed fisheries" and "Replacing licensed fishing boats"].

The back of the fishing boat licence shows the physical details of the boat that is currently attached to the licence and the condition codes for any conditions that apply to the licence. For the full wording of the conditions, please refer to the list of condition codes included in the information kit.

If you believe that corrections need to be made to any of the maximum boat specifications, physical boat details or exemption codes that appear on your licence, please contact NSW DPI on 1300 720 662 in the first instance.

Uniform expiry date

All fishing boat licences have been automatically renewed and set to expire on 30 June 2008. From that point on, the expiry dates will remain aligned with the financial years and the same process for the issue, renewal and payments as outlined above for commercial fishing licences will apply.

Late licence renewal

If, in 2008 and beyond, an application for renewal of a commercial fishing licence is received after the expiry date on the licence, the application may be refused.

Issue of 'new' fishing boat licences

The freeze on the issue of 'new' boat licences that has been in place since 1984 will continue to apply. This means that no additional boat licences will be created. The only exception is for new boats that will only be used in the Abalone, Lobster or Sea Urchin & Turban Shell fisheries.

To obtain a boat licence you may acquire an existing boat licence from another person. The new transfer rules mean that boat licences are more freely tradeable than in the past. [See the section "Transferring commercial fishing boat licences" below]

Using fishing boats in NSW managed fisheries

There are a number of changes to the rules on the use of licensed fishing boats. A commercial fisher can use any licensed fishing boat provided the boat is smaller than the maximum boat lengths set out for each fishery (or method) in the table below.

The maximum boat length rules for a fishery (or method) do not apply to a boat that has a licence with the relevant 'exemption code' on it, as shown in the following table. Exemption codes have been issued to boat licences to identify boats that can continue to be used in a fishery even though they are longer than the maximum length allowed for that fishery. The codes have been allocated to boat licences based on criteria developed in consultation with the industry advisory bodies.

Fishery / Method	Maximum boat length (in metres)	Exemption code
Estuary General	10	EG
Estuary Prawn Trawling	10	EPT
Ocean Hauling (general purpose haul net)	6	-
Ocean Hauling (other than general purpose haul net)	20	OH
Ocean Trap and Line	16	OTL
Ocean Trawl	20	OT
Lobster	-	-
Abalone	-	-

In addition to the above, only boats with maximum hull units, maximum engine power and maximum head rope length appearing on the boat's licence may be used in the offshore prawn trawl sector of the Ocean Trawl Fishery (ie. in ocean waters between 3 nm and the 280 m [or 150 fathom] depth contour).

Transferring commercial fishing boat licences

Fishing boat licences can now be transferred to any person (whether a fishing business owner or not) separate to other components of a fishing businesses.

A new application form for the transfer of a fishing boat licence is available and can be obtained by contacting NSW DPI or downloaded from the website www.dpi.nsw.gov.au.

The fee payable to transfer a right to a fishing boat licence remains unchanged.

Replacing licensed fishing boats

Licensed fishing boats can be replaced with a new boat at any time, subject to the following rules.

To streamline the process, NSW DPI has automatically applied the previous boat replacement policies (eg. the 10% or 1 m tolerance) to each eligible licence in a one-off assessment to determine the maximum size boat that may be attached to the licence in the future. These appear on the front of the boat licence and are referred to as the 'maximum boat specifications'. All boat licences show a maximum length and whether or not the boat can be powered. Boat licences that previously had an 'OP1' offshore prawn trawl endorsement now show the maximum hull units, engine power and head rope length.

A replacement boat must not exceed any of the maximum boat specifications that appear on the licence for the boat.

Also note that the previous 'two year downgrade' policy has been abolished. This means that you can attach a smaller boat to a licence for any length of time, and in the future be able to replace that smaller boat with a larger boat up to the maximum boat specifications appearing on the licence.

In determining whether a boat complies with the maximum boat specifications, the following will apply:

- The length, depth and breadth are to be determined in accordance with the Uniform Shipping Laws (USL) Code;
- If a survey certificate has been issued for the boat, the length, depth and breadth specified in the survey certificate;
- The engine power is to be determined in accordance with the continuous or "A" brake kilowatt rating for the engine published by the manufacturer of the engine.

An application must be made before a boat is replaced and used to fish commercially. An application form for boat replacement is available and can be obtained by contacting NSW DPI or downloaded from the website www.dpi.nsw.gov.au.

Each time a boat is replaced, the physical boat details appearing on the back of the licence will be changed to reflect those of the new boat and an amended boat licence will be issued.

There is no application fee for boat replacement. The fees payable in respect of a boat licence are calculated based on the size of the boat at the start of each financial year (1 July) and will be collected as part of the annual invoicing process. If a boat is replaced during a financial year, the fees payable will be recalculated based on the new boat at the beginning of the next financial year.

With the added flexibility now available regarding boat licence transfers and boat replacement, there is no provision to increase the size of a boat beyond the maximum boat specifications on a licence. Under such circumstances, the person will need to acquire another existing boat licence that covers the size of boat they wish to use.

New general boat licence conditions

A number of new boat licence conditions apply to the holder of the licence. These conditions will not appear on the licence but instead are specified directly in the legislation (ie. they are prescribed in Regulation). They are:

- The holder of the licence must not assist, encourage or permit the master of the boat to contravene the Act, the regulations under the Act or the conditions of the licence;
- The holder of the licence must take all reasonable steps to ensure that the master of the boat does not contravene the Act, the regulations under the Act or the conditions of the licence;
- The boat must not be modified in such a manner that the boat ceases to comply with any maximum boat specifications set out on the licence;
- The boat must not be modified in such a manner as to affect its length, hull units or engine power (if those particulars are noted on the licence) without first gaining approval from NSW DPI to change the boat's identifying particulars noted on the licence;
- The boat must not be replaced and used without first applying for and having the physical boat details changed on the licence;
- If the boat is disposed of, destroyed or lost at sea the holder of the licence must notify the NSW DPI within 30 days.

Voluntary suspension of the boat licence (abeyance)

The previous two year abeyance provisions for boat licences no longer apply. Instead, if a boat is disposed of, destroyed or lost at sea the owner may request in writing that the boat licence be "voluntarily suspended". If a boat licence is voluntarily suspended, NSW DPI will remove the physical boat details from the back of the boat licence. The owner may at any time apply in writing for the suspension to be lifted, at which time NSW DPI will add the physical boat details for the replacement boat to the licence.

Boat licences that have been voluntarily suspended can be freely transferred to another person. The new owner can remove the voluntary suspension and place a boat under the licence at any time provided the standard boat replacement rules are followed, and noting that some outstanding fees may be payable at that time (ie. fees accrued if the boat licence has been voluntarily suspended before 1 July 2007).

From 1 July 2007, the standard boat licence renewal fees will need to be paid on an annual basis, even for licences that are voluntarily suspended. The fees will be included in the licence holder's 2007/08 financial year invoices and beyond.

For the holders of boat licences that were in abeyance at the start of these new arrangements, those licences have automatically been voluntarily suspended. At the point in time when a boat is attached to the licence in the future, all outstanding fees owing for the period the licence was in abeyance before 1 July 2007 will be payable.

Displaying LFB numbers on boats

It is no longer a requirement for LFB numbers to be displayed on the outside of the top of the wheelhouse of a boat. Instead, LFB numbers may be displayed on both sides of the bow of the boat or the outside of both sides of the wheelhouse. Changes have also been made to the size of LFB numbers displayed on boats. The minimum height per letter or number is 150 mm unless the boat is over 7.5 m long and is used in ocean waters, in which case the minimum height is 300 mm and minimum width 150 mm. If the boat is not used in ocean waters, then the characters only need to be the smaller size.

Grounds to refuse the issue or renewal, or suspend or cancel, fishing boat licences

Some additional grounds have been introduced to refuse the issue or renewal, or suspend or cancel, fishing boat licences that are consistent in nature with existing grounds.

The issue of a fishing boat licence may be refused if the applicant: makes a statement in connection with the application that is found to be false or misleading; has previously held a commercial fishing boat licence that has been cancelled or is suspended; or, does not provide information needed by NSW DPI to determine if the boat meets the maximum boat specifications on the licence.

The renewal of a fishing boat licence may be refused if: the renewal application is received after the expiry date of the licence; the applicant makes a statement in connection with the application that is found to be false or misleading; the boat does not comply with any maximum boat specifications set out on the licence; or, the applicant does not provide information needed by NSW DPI to determine if the boat meets the maximum boat specifications on the licence.

A fishing boat licence may be suspended or cancelled if: the boat has been seized for an offence against the Act or regulation; the holder of the licence has not paid any fee due and payable in respect of the licence; the boat does not comply with any maximum boat specifications set out on the licence; or, the holder of the licence has requested in writing that it be suspended or cancelled.

Boat registrations

To remove duplication, boats taking fish under other jurisdictions and landing those fish in NSW ports are no longer required to be registered if they are not licensed to take fish in NSW waters. NSW DPI officers may still board and inspect any such boat.

Transferring shares and restricted fishery endorsements

The transfer, transmission or mortgaging of shares and the transfer of restricted fishery endorsements ('the transfer') are permitted subject to the transfer rules outlined below. Please note that new licensing and share systems have been implemented and will be under development in the short term. As such, there may be delays in processing share transfer applications early on and fisher's patience during this period would be appreciated.

Shares in the new category 1 fisheries

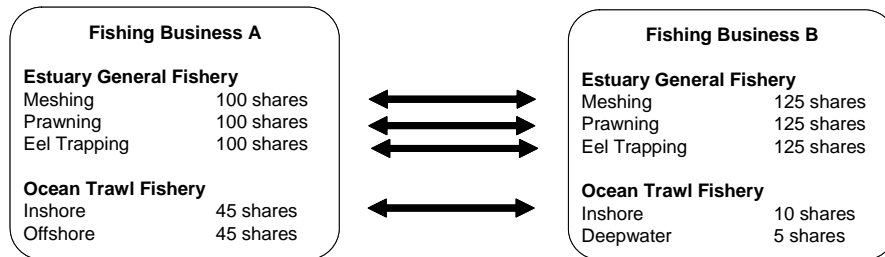
The following rules apply to the following category 1 fisheries only: Estuary General, Estuary Prawn Trawl, Ocean Hauling, Ocean Trap & Line and Ocean Trawl. Example diagrams are included for illustration purposes only. Note that once you begin to sell shares, your business will become subject to the minimum shareholding requirement for that share class [see the 'Endorsement eligibility' section below].

Where a transferee owns more than one fishing business the transferee must identify the business to which the transfer applies. The shares and or endorsement that are transferred will then (subject to the transfer rules) become part of that business.

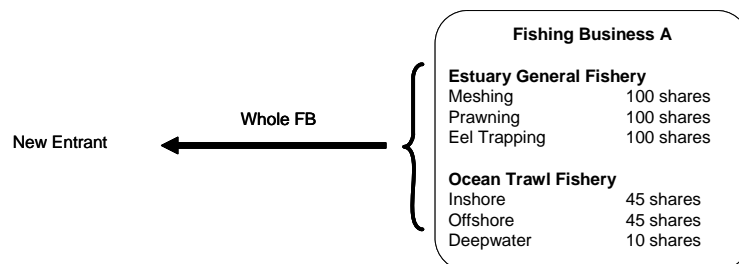
Transfers generally

A share may be transferred to another person if:

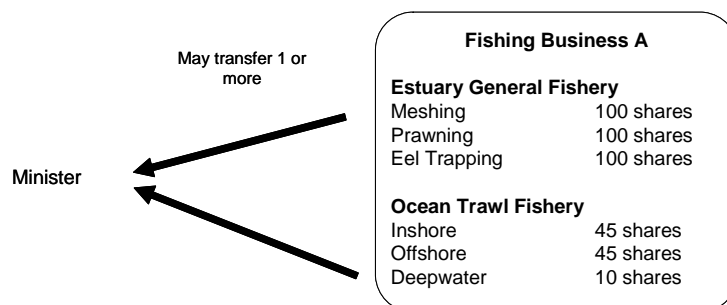
- (a) the person is a shareholder who already holds shares of that class, or



- (b) all other components of the fishing business are transferred to that person, or



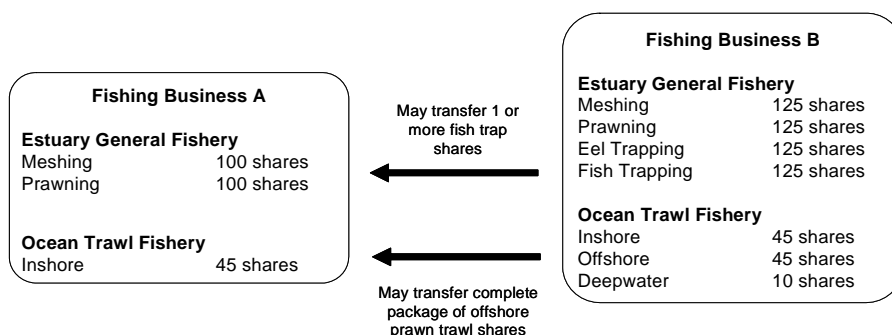
- (c) the transfer is part of an arrangement for the shares to be surrendered.



Transfers to owners in the same fishery

In addition to the transfer rules above, one or more shares may be transferred to another shareholder in the same fishery, but not if the shares are included in one of the share classes shown in the following table. In this latter case, the whole class of share must be transferred.

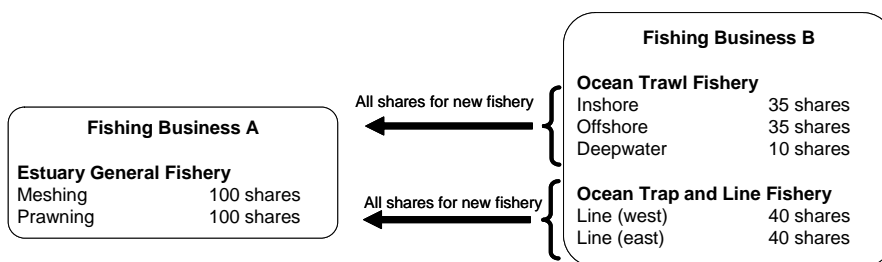
Fishery	Share classes subject to limited transferability
Ocean Trawl	Inshore prawn shares; Offshore prawn shares; Deepwater prawn shares; Fish northern zone shares
Ocean Trap & Line	Spanner crab northern zone shares
Ocean Hauling	General ocean hauling shares (all regions); Hauling net (general purpose) shares (all regions); Pilchard, anchovy and bait net (hauling) shares (all regions); Garfish net (hauling) shares (all regions); Purse seine net shares



If a share being transferred is a share in the Ocean Trawl Fishery, the share may be transferred to the owner of a fishing business with a Southern Fish Trawl Restricted Fishery endorsement provided all the shares of that class are transferred.

Transfers to owners in other fisheries

Shares in a fishery may be transferred to another shareholder who does not already hold shares in that fishery, provided all the shares in that fishery are transferred to that shareholder.



If the shares being transferred are shares in the Ocean Trawl Fishery, any Southern Fish Trawl Restricted Fishery endorsements held by the transferee must also be transferred to that shareholder.

Application to transfer shares or endorsements

Application forms will be available for transferring shares and/or restricted fishery endorsements and for registering the transaction in the share register.

The application fee for registering the transfer, assignment or transmission of shares and/or the transfer of a restricted fishery endorsement is \$238. A person transferring shares *and* a restricted fishery endorsement within the same fishing business will only pay \$238 (not twice that amount). The fee for registering a transaction that has the effect of mortgaging or otherwise creating an interest in a share (other than a transfer, assignment or transmission) is \$417.

Lobster and abalone shares

The existing arrangements for transferring lobster and abalone shares remain the same.

Sea Urchin & Turban Shell Restricted Fishery endorsements

The only change to these endorsements is the introduction of an endorsement transfer fee of \$238 which is consistent with the fee for registering a transfer of shares or transferring a southern fish trawl endorsement.

Southern Fish Trawl Restricted Fishery endorsements

Southern fish trawl endorsements are taken to be similar for administrative purposes to a class of shares in the Ocean Trawl Fishery and are no longer subject to the previous '\$30,000 catch history transfer criteria' that applied. A southern fish trawl endorsement may be transferred to another person if:

- all other components of the fishing business are also transferred to that person, or
- all Ocean Trawl Fishery shares allocated to the fishing business are also transferred to the person and that person is already a shareholder in the Estuary General, Estuary Prawn Trawl, Ocean Hauling or Ocean Trap & Line Fishery,
- the person is already a shareholder in the Ocean Trawl Fishery, or
- the transfer is part of an arrangement for the shares to be surrendered.

A transfer application fee applies for southern fish trawl endorsements, as outlined above.

Validated catch history

Records have been retained of the validated catch history of each fishing business. However, persons considering buying or selling shares or restricted fishery endorsements should be aware that validated catch history will not be 'transferred' with those shares or endorsements and is not determined as a component of any fishing business.

Endorsement eligibility in new category 1 share management fisheries

Shareholders who were eligible for endorsements immediately before the commencement of the share management plans will remain eligible for those endorsements. However, once a shareholder sells shares of a certain class, the minimum shareholding is applied and the business only remains eligible for the endorsement if the number of shares held is equal to or above the minimum shareholding for that class of share.

If a business owner does not hold an endorsement and wishes to gain one, they will need to acquire sufficient shares to meet the minimum shareholding requirements.

The current minimum shareholdings are set out in the table below.

Class of Share	Minimum Shareholding
Estuary General Fishery	
Handline and hauling crew – all regions	125
Meshing – all regions	125
Prawning – all regions	125
Trapping – all regions	125
Eel trapping – all regions	125
Mud crab trapping – all regions	125
Hand gathering – Regions: 1, 2, 3, 4, 6, 7	125
Hand gathering – Region 5	100
Category one hauling – all regions	125
Category two hauling – all regions	125
Estuary Prawn Trawl Fishery	
Clarence River	150
Hunter River	100
Hawkesbury River	150
Ocean Hauling Fishery	
General ocean hauling – all regions	40
Hauling net (general purpose) – all regions	40
Garfish net (hauling) – Region: 1, 2	10
Garfish net (hauling) – Regions: 3, 4, 5, 6, 7	40
Pilchard anchovy and bait net (hauling) – all regions	30
Purse seine net	40
Ocean Trap & Line Fishery	
Line fishing western zone	40
Line fishing eastern zone	40
Demersal fish trap	40
School and gummy shark	40
Spanner crab northern zone	40
Spanner crab southern zone	40
Ocean Trawl Fishery	
Inshore prawn	32
Offshore prawn	32
Deepwater prawn	20
Fish (northern zone)	32

Please see the additional information sections later in this paper for information about specific minimum shareholding requirements that apply in the Ocean Trap & Line Fishery and Ocean Trawl Fishery.

Fishing business determinations

A new fishing business determination has been made in respect of each fishing business in NSW. A fishing business determination identifies the fishing business and the components of that fishing business as recorded by NSW DPI. Once a determination is made, the owner is sent a fishing business determination certificate showing the components recorded against the business.

The following things have been determined as components of fishing businesses, where applicable:

- the shares held by the business (ie. the classes of share and number of shares);
- the endorsements allocated to the business; and
- any external fishing authorities connected to the business that have been issued by another State, Territory or Commonwealth government agency.

Each time the components of a fishing business change (eg. because shares have been transferred), a new fishing business determination will be made and a new certificate will be issued to the owner.

Changes relating to the use of crew

A crew member is a person who assists an endorsed fisher with a commercial fishing activity and either: (i) does not themselves hold a licence, or (ii) holds a licence but is not endorsed for the fishing activity being undertaken.

Class 1 commercial fishing licences now automatically authorise the use of crew, subject to the limitations in the table below (which are included in the share management plans).

Fishery	Limitation
Abalone	A Class 3 licence is required to work as crew in the Abalone Fishery (other than the minor exception provided for in the plan relating to unlicensed crew – ie. maximum of 2 days per month)
Lobster	A Class 3 licence is required to work as crew in the Lobster Fishery (other than the minor exception provided for in the plan relating to unlicensed crew – ie. maximum of 2 days per month)
Estuary General	Crew are not permitted in the Estuary General Fishery, unless assisting the holder of a prawning endorsement to take fish using a seine net (prawns) from a boat (ie. not from the shore)
Ocean Hauling	Crew are not permitted in the Ocean Hauling Fishery, unless assisting the holder of a purse seine net endorsement to take fish using a purse seine net from a boat (ie. not from the shore)
Ocean Trap & Line	No more than three (3) crew are permitted on a boat that is being used to take fish in the Ocean Trap & Line Fishery

The new arrangements mean that licence holders no longer need to apply for and pay additional fees to authorise crew members. Fishers who previously paid more to add extra crew to their licences (known before as 'block licences') will benefit from a saving on licence fees in the future.

New general licence conditions for Class 3 licence holders (abalone & lobster crew)

Two licence conditions apply to Class 3 licence holders which carry over the rules in place prior to the start of the new arrangements. These conditions will not appear on the licences, but instead are specified directly in the legislation (ie. they are prescribed in the Regulation). The conditions prohibit Class 3 licence holders in the Lobster and Abalone fisheries from:

- (a) taking fish unless as a crew member for a person holding an endorsement, and
- (b) selling fish on behalf of the endorsement holder.

NSW policy on national licence splitting

The NSW laws were amended in 2006 to provide greater protection to the State's fisheries from the risks of effort increases created by external fishing authorities being separated from NSW fishing authorities. Any NSW fishing authorities that are components of a fishing business can be suspended, cancelled or otherwise restricted if external fishing authorities are transferred or surrendered separate to the NSW fishing authorities. External fishing authorities include any Commonwealth or interstate permits, statutory fishing rights, etc, that are specified in the fishing business determination certificate.

It is also now a requirement that the owner of a NSW fishing business with external fishing authorities gives notice in writing to NSW DPI at least seven days before the proposed transfer of any external fishing authority. A penalty applies to business owners who fail to notify NSW DPI within the required time.

Fees

All commercial fishing business owners, holders of a commercial fishing licence or holders of a fishing boat licence will be invoiced annually for all fees relating to their fishing business and/or licences. Invoices for the 2007/08 financial year will be issued in July 2007. For the first time these invoices will include licence renewal fees. Further information about the different fees payable by business owners or licence holders will be sent to commercial fishing customers at that time.

Catch reporting requirements

Consistent with the move to assign greater responsibility to fishing business owners, it is now a requirement for fishing business owners (not nominated fishers or any other person) to make and submit separate catch records for each fishing business owned by the person. This does not apply to the Abalone, Lobster or Sea Urchin & Turban Shell fisheries.

Estuary General Fishery – additional information

Access to multiple regions

Fishers can now work endorsements in more than one region, subject to holding enough shares in each region to meet the minimum shareholding requirements.

Freeze on nominations (owner-operator rule)

The freeze on nominations in the Estuary General Fishery no longer applies.

Species that may be taken

It is now a condition of each endorsement in the fishery that only "permitted species" may be taken in the fishery. Please refer to the Estuary General share management plan for a complete list of the permitted species in the fishery.

'Category one hauling' endorsement holders

Under the new arrangements category one hauling endorsement holders are restricted to one shot per day in the following waters, regardless of the length of net used. Note that nets greater than 500 metres remain prohibited in these waters.

Tuggerah Lake;
Wallis Lake (excluding Wollomba, Wallingat, Coo loongolok and Wang Wauk Rivers);
Wallaga Lake upwards from the bridge and embankment on the Narooma-Bermagui Road;
The Broadwater of the Clarence River;
Lake Innes;
Smiths Lake;
Myall Lake;
Booloombayt Lake;
The Broadwater of Myall Lakes; and
Lake Illawarra.

Storage of eels

Commercial fishers authorised to take eels for sale from estuarine waters must not store any live eels taken, or possess any device used to store live eels, in, on, or adjacent to the following waters:

- any freshwater river, creek, stream, lake or lagoon; or
- waters in which commercial fishing for eels or the use of eel traps is prohibited.

Re-determination of shares for access to additional regions

Under the zoning scheme implemented in September 2002, Estuary General fishing business owners were restricted to operating in one region of the fishery known as the 'primary region'. Some owners were granted additional endorsements authorising fishing in region(s) outside their primary region, based on historical activity. These 'additional region' endorsements were transferable when the fishery was a Restricted Fishery and during the limited access stage if the person held 125 provisional shares for the relevant endorsement (eg. prawning endorsement) in the primary region. With the new share trading rules, the link between the primary region and additional region endorsements will no longer exist. Also, the minimum shareholding of 125 shares means that these additional region endorsements (issued based on one share only) would, in effect, be 'non-transferable'.

A way has been developed, in consultation with the industry representatives on SIAC and several affected fishers, to maintain the transferable nature of these endorsements. It involves cancelling the provisional shares allocated for the additional region endorsements and instead authorising access to other estuaries through the primary region endorsements. This means that if a shareholder transfers a complete package of 125 primary region shares to another owner, under the current minimum shareholding requirements the new owner will be eligible for both the primary region endorsement and any additional estuaries specified in that endorsement. The additional estuaries are listed on the back of the 'fishing business card'.

Please note that if a shareholder sells one or more primary region shares and, by doing so, falls below the minimum shareholding of 125 shares, then the business will no longer be eligible to hold the primary region endorsement (and therefore access to estuaries in other regions authorised by that endorsement). Once this occurs, the additional access arrangements can not be reinstated, even if more shares are purchased by the business owner.

Re-determination of hand gathering shares for 'restricted wormers'

Before the start of the restricted fishery in March 1997, some fishers were granted special licences to harvest beachworms only (ie. as a variation to the licence freeze at that time). Some of these licences were issued on a transferable basis; others were issued on a non-transferable basis.

During the allocation of provisional shares, fishing businesses with “non-transferable restricted” hand gathering endorsement were issued only one share (so that, in effect, they remained non-transferable). The owners of the transferable endorsements were issued more shares, depending on their level of catch history. Four of the fishers in this latter category satisfied the \$12,500 transfer criteria and were allocated 50 hand gathering shares.

The endorsements for these four fishers were transferable under the guidelines that applied when the fishery was a Restricted Fishery and during the limited access stage, although the condition limiting the endorsement holder to taking beachworms would remain after any transfer. Under the new share management plan, these endorsements would have effectively become ‘non-transferable’ because of the minimum shareholding of 125 shares. This is not the intention.

A way has been developed, in consultation with the industry representatives on SIAC, to maintain the transferable nature of these endorsements. It involves allocating an additional 75 hand gathering shares to the four business owners who were initially allocated 50 hand gathering shares, so that they now hold 125 shares. If the shares are transferred as a complete package (and the minimum shareholding is satisfied) in the future, the condition limiting the endorsement holder to taking beachworms will continue apply to the new owner.

Estuary Prawn Trawl Fishery – additional information

Species that may be taken

It is now a condition of each endorsement in the fishery that only *target* and *byproduct* species specified for each estuary of the fishery may be taken. Please refer to the Estuary Prawn Trawl share management plan for a complete list of target and byproduct species by estuary.

Targeting of species with prawn trawl nets

In recognition that prawn trawl nets have been used to target prawns and other species of fish (and in accordance with the Estuary Prawn Trawl Fishery Management Strategy), the management plan provides for prawn trawl nets to be used to target the following species within each estuary. It is unlawful to target any other species while trawling in each of these waters.

River	Target species	
Clarence River	School prawn	
Hunter River	School prawn Eastern king prawn	
Hawkesbury River	School prawn	Bubble squid
	Eastern king prawn	Bottle squid
	Slender squid	Broad squid
	Candy striped squid	

S1 to S6 endorsements

To implement the new boat licence arrangements, the S1 to S6 estuary prawn trawl endorsements have been removed from all boat licences. The closure notification that prohibited boats without a S1 to S6 endorsement from being used in the estuary prawn trawl fishery has been revoked. All Estuary Prawn Trawl endorsements now appear on the fishing business card and any licensed boat can be used provided it falls within the maximum boat length rules [see section “Changes relating the licensing and use of fishing boats” above].

Freeze on nominations (owner-operator rule)

The freeze on nominations in the Estuary Prawn Trawl Fishery no longer applies.

Freeze on transfer of Hawkesbury River prawn trawl endorsements

The freeze on the transfer of Hawkesbury River prawn trawl endorsements no longer applies. The freeze has been replaced by a minimum shareholding of 150 Hawkesbury River prawn trawl shares.

Minimum shareholding for the Clarence River prawn trawl fishery

The minimum shareholding of 100 that applied in the limited access phase has been replaced by a minimum shareholding of 150 Clarence River prawn trawl shares.

Seasonal arrangements – Clarence River

The provision allowing the Clarence River prawn trawl season to be extended for up to fifteen (15) working days either at the start of the season (river only) or the end of the season, or a combination of both, no longer applies under the management plan. Instead, the end of the season has been extended by 15 working days with a new fixed closing date of 14 June (instead of 31 May).

Boat replacement rules – Clarence River

To implement the new boat licence arrangements, the 10% tolerance on length, depth, breadth and engine power have been replaced with rules that are consistent with those applying to all other sectors of the industry (other than the offshore prawn trawl sector). As outlined earlier, these policies have been automatically applied to eligible boat licences in a one-off assessment to determine the maximum boat specifications that now appear on the front of the boat licence.

Ocean Hauling Fishery – additional information

‘Skipper’ and ‘crew’ endorsements

The former Class A (skipper) and Class B (crew) endorsements no longer apply in the Ocean Hauling Fishery. Instead, anyone who holds a ‘general ocean hauling’ endorsement for a region may assist the holder of an endorsement for that same region which authorises the use of any of the following net types:

Hauling Net (General Purpose);
Garfish Net (Hauling); or
Pilchard Anchovy and Bait Net (Hauling).

Two year ‘crew apprenticeship’

The former requirement for new entrants to hold ‘crew’ endorsements for two years before becoming eligible for a ‘skipper’ endorsement no longer applies.

Nominations

The requirement to satisfy ‘transfer criteria’ before being eligible to nominate a person to hold your endorsements no longer applies. Instead, the new nomination provisions explained earlier in this document apply.

Use of assistants who are not endorsed

It is still a condition of an endorsement that the endorsement holder does not take fish or otherwise engage in any Ocean Hauling operations (other than purse seine operations) with the assistance of any person, other than a person who holds a general ocean hauling endorsement in that region. ‘Ocean Hauling operations’ includes the following:

- (a) operating or stowing a hauling net or operating any motor vehicle or boat in relation to the operation of those nets while in, on or adjacent to the waters of the fishery;
- (b) removing any fish taken in the fishery from a hauling net; or
- (c) placing any fish taken in the fishery by means of a hauling net into boxes, containers or any other receptacles while in, on or adjacent to the waters of the fishery.

Display of identification information on motor vehicles

The information which endorsement holders must display on any motor vehicle used in connection with their hauling operations has been simplified and now only requires the following:

- (a) the words “Ocean Hauling Fishery”;
- (b) the number of the fishing business that is being worked by the endorsement holder.

If a motor vehicle is being used by more than one endorsement holder, it is sufficient for the fishing business number of only one of the endorsement holders to be displayed.

Priority of shot

The former priority of shot rules continue to apply, except that evidence of endorsement must now also be provided where fishing priority is sought. These requirements can be satisfied by fishers producing their fishing business card to show that they hold the relevant endorsement. Specific Ocean Hauling Fishery identity cards will no longer be required or issued.

Use of nets in or near flagged swimming areas

The management plan specifies that an endorsement holder must not shoot or retrieve a net while in a flagged swimming area. It is also anticipated that the fishery's Code of Practice will be refined to provide guidance on the operation of nets in the vicinity of flagged areas. Note also that compliance with the fishery Code of Practice is no longer a condition of an endorsement in line with the intent of such a code to promote appropriate behaviour on a voluntary basis. Mandatory rules are more appropriately placed within the Regulation.

Public liability insurance

Holding public liability insurance is no longer a mandatory requirement of beach hauling operations under the share management plan. Fishers should seek their own legal advice regarding liability. Note that other Government agencies may still require fishers to hold insurance as a condition of beach access.

Access to multiple regions

Fishers can now work endorsements in more than one region, subject to holding enough shares in each region to meet the minimum shareholding requirements.

Taking mullet in estuary waters

The previous restrictions applying to dual endorsed fishers regarding the taking mullet in estuary waters in the same region as their Ocean Hauling region no longer apply. Instead, fishers are able to operate in estuary waters in accordance with any Estuary General endorsements they hold.

Engine power restrictions

The prohibition on using boats in beach hauling operations with engines that produce more than 41 kilowatts of power no longer applies. Instead, the 6 metre limit on boat length will be used to cap the fishing capacity of boats.

Ocean Trap & Line Fishery – additional information

Minimum shareholding requirement

The share management plan includes a requirement for all shareholders to satisfy the minimum shareholdings set out in the plans within 2½ years from the commencement of the plans in order to remain eligible for those endorsements.

Automatic baiting machines

Consistent with the approved Fishery Management Strategy, it is now a condition of every endorsement in the Ocean Trap & Line Fishery that automatic baiting machines are not used in NSW waters.

Ocean Trawl Fishery – additional information

Minimum shareholding requirement

The share management plan includes a requirement for all shareholders to satisfy the minimum shareholdings set out in the plans within 2½ years from the commencement of the plans in order to remain eligible for those endorsements.

OP1 endorsements

To implement the new boat licence arrangements, all OP1 endorsements have been removed from boat licences. The fishing closure that prohibited boats without an OP1 endorsement from being used in the offshore prawn trawl sector has been revoked. Instead, a new condition applies which prohibits the holder of an offshore prawn trawl endorsement from using a boat in that sector unless the maximum hull units, maximum engine power and a maximum head rope length appears on the licence.

Amalgamation of units

The amalgamation of units in the offshore prawn trawl sector is no longer available (and by default, the freeze on amalgamations is now irrelevant). Instead, if you require additional horsepower or more head rope you may source a suitable boat licence on the open market. Restructuring in the Ocean Trawl Fishery will be achieved in other ways, such as through the minimum shareholdings included in the share management plan and a days/nights based management scheme.

P1 to P4 conditions

To implement the new boat licensing arrangements, all former P1, P2, P3 & P4 boat licence conditions have been removed. Please note, however, that:

- businesses that held a P3 prawn trawl licence have been allocated one (1) offshore prawn trawl share and the offshore prawn trawl endorsement is effectively 'non-transferable' under the new minimum shareholding of 32 offshore prawn trawl shares;
- businesses that held a P4 prawn trawlers will remain restricted to waters north of Cape Byron via a condition on the endorsement, instead of a condition on the boat licence.

Waters of the offshore and deepwater prawn trawl fisheries

Consistent with the requirement of the Fishery Management Strategy, the offshore prawn trawl endorsement now only authorises prawn trawling in waters between 3 nm and the 280 m (150 fathom) depth contour. To use a prawn trawl net outside the 280 m depth contour, a deepwater prawn trawl endorsement needs to be held.

Re-determination of Ocean Trawl Fishery shares

During 2004, provisional shares were issued in the Ocean Trawl Fishery for each endorsement type, with a further class of share known as 'ocean trawl fishery' shares allocated on the basis of historic participation across all sectors of the fishery. Allocating shares in this way was intended to provide industry with the option of applying minimum shareholdings at the 'endorsement level' or at the 'fishery level', or a combination of both.

During drafting of the Ocean Trawl share management plan it became apparent that a share which does not confer an explicit right to participate in a fishery cannot be included in the plan. Consequently, the 'ocean trawl fishery' class of share will no longer exist after 5 February 2007 and all previous shares in that share class are being cancelled. This change was supported by the industry representatives on the Ocean Trawl MAC and SIAC.

Abalone Fishery – additional information

The following necessary changes have been made to accommodate the new streamlined licensing arrangements that will apply across all commercial fisheries.

New nominations provisions

The new nomination provisions explained earlier in this document also apply to the Abalone Fishery. Changes to note include the new 'fishing business card', the two step nomination process, a reduction of the minimum timeframe for nominations from 4 weeks to 48 hours, and no fees for nominations (previously \$357).

Class 3 licences for crew

Crew in the Abalone Fishery must now hold a Class 3 licence instead of a crew registration. NSW DPI has automatically issued a Class 3 licence to all currently registered crew. The previous crew registrations are no longer valid.

First aid certificates

The requirement to hold a first aid certificate to be eligible to be crew in the Abalone Fishery no longer applies. Participants in the Abalone Fishery should seek their own advice regarding requirements under other legislation (eg. NSW Maritime rules, Work Cover, OH&S legislation, etc).

Lobster Fishery – additional information

The following necessary changes have been made to accommodate the new streamlined licensing arrangements that will apply across all commercial fisheries.

New nominations provisions

The new nomination provisions explained earlier in this document also apply to the Lobster Fishery. Changes to note include the new 'fishing business card', the two step nomination process, a reduction of the minimum timeframe for nominations from 4 weeks to 48 hours, and no fees for nominations (previously \$357).

Class 3 licences for crew

Crew in the Lobster Fishery must now hold a Class 3 licence instead of a crew registration. NSW DPI has automatically issued a Class 3 licence to all currently registered crew. The previous crew registrations are no longer valid.

Relevant legal instruments

The relevant legal instruments include:

- Fisheries Management Act 1994
- Fisheries Management (General) Regulation 2002
- Fisheries Management (Estuary General Share Management Plan) Regulation 2006
- Fisheries Management (Estuary Prawn Trawl Management Plan) Regulation 2006
- Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006
- Fisheries Management (Ocean Trawl Share Management Plan) Regulation 2006
- Fisheries Management (Ocean Trap and Line Share Management Plan) Regulation 2006
- Fisheries Management (Supporting Plan) Regulation 2006
- Fisheries Management (Abalone Share Management Plan) Regulation 2000
- Fisheries Management (Lobster Share Management Plan) Regulation 2000

These can be viewed in full at the website www.legislation.nsw.gov.au.