

Fisheries Management Act 1994  
**Lobster Share Management  
Fishery  
SHARE TENDER APPLICATION  
FORM**

Office Use Only

INW12/.....

This form is to be used by persons wishing to submit a tender to purchase shares in the Lobster share management fishery. The form is to be completed in every detail and witnessed wherever indicated.

**Information about the Lobster Share Management Fishery**

The commercial lobster fishery in NSW is a share management fishery administered under the *Fisheries Management Act 1994 and Fisheries Management (Lobster Share Management Plan) Regulation 2000*. The fishery extends along the NSW coastline, from the Queensland border to the Victorian border and includes all waters within the jurisdiction of NSW to around 80 nautical miles from the coast. Relevant legislation is available at: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

There are currently 9,727 shares in the Lobster Share Management Fishery and 103 shareholders with shareholdings ranging from 10 to 350 shares. New entrants to the fishery must hold a minimum of 55 shares to be eligible for an endorsement in the fishery. Current licensing arrangements for the fishery were introduced on 5 February 2007. A Commercial Fisheries Administration Guide concerning commercial fishery licensing and management arrangements is available from the NSW DPI website.

Commercial fishing for lobsters is controlled under a quota management system. A total allowable commercial catch (TACC) is set each year by the statutory and independent Total Allowable Catch Setting and Review Committee. The TACC is proportionately allocated (i.e. a quota allocation) on the basis of the shares held in the fishery. A TACC of 149 tonnes is set for the fishery for the fishing period 1 July 2011 to 31 July 2012.

Eastern rock lobster (*Jasus verreauxi*) is the main species harvested but occasionally, southern rock lobster (*Jasus edwardsii*) and tropical rock lobster (*Panulirus longipes* and *Panulirus ornatus*) are also caught. Lobsters may only be taken by hand picking or by use of a commercial lobster trap (as described in the *Fisheries Management (Lobster Share Management Plan) Regulation 2000*). In NSW the use of SCUBA or hookah apparatus to take lobsters is prohibited for both commercial and recreational fishers.

**Please note that in this application form:**

- “**Applicant**” means the person submitting the tender for the transfer of shares as described in this application
- “**ABN**” means the Australian Business Number (ABN) provided by the Australian Securities Commission. ABN numbers are issued to all enterprises including to an individual, a partnership and a company.
- “**FB**” means fishing business,
- “**NSW DPI**” means the NSW Department of Primary Industries,
- “**NSW DPI website**” for this application means: [www.dpi.nsw.gov.au/fisheries/commercial](http://www.dpi.nsw.gov.au/fisheries/commercial)
- “**Minister**” means the Minister for Primary Industries and any person having relevant delegated authority of the Minister.
- “**Tender**” includes the tender for one or more of any lots offered for tender.

Completed application forms should be marked ‘**Private and Confidential**’ and delivered or posted to:

**LOBSTER SHARE TENDER**  
NSW Department of Primary Industries  
Tender Box  
Locked Bag 21 (or 161 Kite Street for couriered tenders)  
ORANGE NSW 2800

OR

Lodged electronically through the NSW  
Government eTendering website

Applications received at the above address or website after 2pm on 21 March 2012 will not be accepted.

**ALL 5 PAGES OF THE SHARE TENDER APPLICATION FORM SHOULD BE SUBMITTED  
DO NOT SEPARATE ANY PAGES OF THE FORM**

**For inquiries regarding completing this form, please call 9527 8461.**

**Privacy information:** The personal information provided by you on this application form is being collected by NSW DPI for the purposes of assessing your application and administering the *Fisheries Management Act 1994*. It may be disclosed to other government agencies for that purpose or a related purpose. The information you provide in this form is given voluntarily to support your application. Information provided by you will be held by NSW DPI and you have the right to request access to and to correct this information by contacting the NSW DPI Privacy Officer on (02) 9527 8453.

## CHECKLIST AND INFORMATION

Applicants should ensure that they have complied with the following before this application is submitted.  
**Incomplete applications will be declared invalid and not considered further in the tender process.**

### General

1. This form is to be used for the tender for purchase of shares in the lobster share management fishery. This form must be completed in full by the applicant and signatures must be witnessed wherever indicated (**including the footer at the bottom of pages 3 and 4**).
2. Applicants should make their own inquiries regarding the fishery including the relevant provisions of the *Fisheries Management Act 1994* ("the Act") and regulations made under the Act (including the *Fisheries Management (Lobster Share Management Plan) Regulation 2000*). For example, an application to transfer shares may be refused by the Director-General in certain circumstances.
3. There is no fee associated with the application to tender for the advertised shares. However, if this tender is accepted the applicant will be required to pay:
  - a. A transfer fee of \$277.00 to have the shares transferred into their name;
  - b. Management charges of \$44.21 per share for the 2011/12 fishing period; and
  - c. Goods and Services Tax (GST) is payable on the purchase price for supply of the lobster shares by tender.

Please contact A/Co-ordinator, Fisheries Licensing Services on (02) 9527 8461 for further information. Applicants should also be aware of other fees and charges associated with entry into the fishery. Please see the Schedule of Commercial Fisheries Fees on the NSW DPI website for more information.

4. If the Applicant is a company, the full names of both the company and the authorised person acting on behalf of the company must be provided and a current (within 1 month) company extract showing the Australian Securities and Investments Commission registration and the authorisation stipulating the person (with position indicated) who is authorised to sign documents on behalf of the company must accompany this application. If the company is owned by another company, the Company Statement Extract of Particulars of the holding company is also required.
5. If the Applicant is a partnership, all of the partners must sign this application form. An address and postal address for the partnership must be stated. All partners are required to sign the application, unless an authorisation stipulating a person who is authorised to sign documents on behalf of the joint owners is provided.
6. Deceased Estates: If the applicant involves a deceased estate, a certified copy of the Probate Grant or Letters of Administration (as applicable) granted in respect of the Estate and the associated documents must accompany this application form.
7. If the applicant already holds shares in the lobster fishery and the tender application is accepted, the application may be refused if the transfer of shares will result in you holding more than 350 shares in the fishery.

### **Additional Information:**

8. The purchaser will be liable for relevant fees and charges related to the shares whilst those shares are held by the purchaser in future fishing periods.
9. If you propose to fish the quota allocated in respect of your shares: To be eligible for an endorsement you must have the minimum shareholding specified in the fishery management plan. For new entrants this is 55 shares. To be authorised to work the endorsements of a business, a person must hold a current commercial fishing licence and must be recorded by NSW DPI as the endorsed fisher for that business, and must carry a current class 1 commercial fishing licence card together with the current fishing business card while fishing. A fishing business owner who is also a current class 1 commercial fishing licence holder will, by default, be recorded by NSW DPI as the person endorsed for the fishing 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. To register an eligible fisher and select them to be the endorsed or nominated fisher of a business, the relevant application forms must be completed. These are available from the NSW DPI website or can be obtained by phoning 1300 720 662. If you do not hold a commercial fishing licence, you may apply for one by completing the relevant application available from the NSW DPI website or by phoning 1300 720 662. Issue of a commercial fishing licence is subject to the provisions of the Act and Regulations.
10. If you do not propose to fish the quota allocated in respect of your shares: You need not hold a current class 1 commercial fishing licence. Quota may be transferred to other lobster shareholders during a fishing period. For more information, contact the Lobster Fisheries Management Officer on 9527 8555.
11. Any unfished 2011/12 quota allocated in respect of your shares will be automatically surrendered on 31 July 2012 and a new quota will be allocated for the next fishing period, 2012/13.
12. Commercial Fishing Boats: Application forms for issue of a boat licence or transfer of a boat licence are available from the NSW DPI website.

**NOTE: Transactions that have the effect of transferring, assigning or transmitting a share must be registered in the Share Register under section 91 of the Act. No separate share transfer application form is required for the registration of shares to the successful tenderer. NSW DPI also reserves its right to not proceed with all or part of the sale should unforeseen circumstances arise.**

# 1. APPLICANT DETAILS

<b>Name(s) in full:</b>		<b>Registration Number:</b> (if applicable)	
<b>ABN:</b> (if applicable)		<b>Date of Birth:</b> (if an individual)	
<b>Residential address:</b>			
	<b>Postcode:</b>		
<b>Postal address: (if different from above)</b>			
	<b>Postcode:</b>		
<b>Home Ph.:</b>		<b>Mobile Ph.:</b>	<b>Fax:</b>
<b>Email:</b>			

<b>Tick the applicable box</b>	<input type="checkbox"/> I am not a current Lobster Shareholder <input type="checkbox"/> I am a current Lobster Shareholder
<b>Complete ONLY if you are a Current Lobster Shareholder.</b>	1. Specify your current Lobster Fishing Business Number: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> 2. Specify the Registration Number of the Fishing Business Owner: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <b>If your tender application is accepted, the lobster shares will be transferred to the Lobster Fishing Business specified by you above.</b>

<p><b>Have you previously signed a Deed of Release as part of a commercial fishing buy-out scheme? If yes, provide details of the Fishing Business surrendered under that scheme.</b></p> <p><b>Buy-outs: Persons who have participated in buy-out schemes may be precluded from future participation in a particular fishery or specified waters.</b></p>	<input type="checkbox"/> No <input type="checkbox"/> Yes - Specify Fishing Business Number(s): _____
<p><b>Do you have a professional relationship with the NSW DPI as an employee, or as a contractor to the NSW DPI either through a business owned by you or as a subcontractor?</b>  <b>Note:</b> Applications will be assessed to determine that no conflict of interest would arise through the approval of the application.</p>	<input type="checkbox"/> No <input type="checkbox"/> Yes – Please specify:
<p><b>If the Applicant is a Company.</b>          Refer to Note 4 under 'Checklist and Information' on page 2 of this form.</p>	<input type="checkbox"/> I/We have attached a current (within one month) company extract showing the Australian Securities and Investments Commission registration and the authorisation stipulating the person (with position indicated) who is authorised to sign documents on behalf of the company.

Applicant Signature: \_\_\_\_\_ Witness Signature: \_\_\_\_\_  
 Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

## 2. SHARE TENDER DETAILS

### PUBLIC NOTICE TENDER DETAILS

Tenders were invited and to be received at NSW DPI by 2 pm on 21 March 2012 for the purchase of 14 shares in the NSW Lobster Share Management Fishery.

Shares in the fishery entitle the shareholder to annual lobster quota. Each share includes approximately 15.32 kgs of quota per share for the 2011/12 fishing period. A total of 214.48 kgs will be available with this share package.

The tender may not necessarily be awarded to the highest tender.

#### Please note :

- Tenders must be for the whole share package available, being 14 shares.
- Price: **Insert the price tendered per share (excluding GST) and Total purchase price tendered in the spaces provided.** See **Note 3(c)** under '*Checklist and Information*' on page 2 of this form.
- The total purchase price, the 2011/12 management charges for 2011/12 (\$618.94) and GST must be paid within 21 days of written notice of acceptance of the tender.
- Tenders will be determined on the criteria of:-
  - a. highest price tendered; and
  - b. record of convictions for fisheries related offences; and
  - c. if tenders are otherwise considered to be equal, a ballot of those tenders will be undertaken;

To the Minister for Primary Industries, I offer to pay the purchase price for shares in the lobster share management fishery specified below. In addition to the purchase price I also agree to pay the relevant management charges and GST payable in relation to the shares tendered for.

Package of available lobster shares	Purchase price tendered <u>per share</u> (excluding GST)	Total purchase price tendered (excluding GST)
14 shares	\$ _____	\$ _____

Please enter the purchase price you are tendering per share and total price in the Price Tendered (\$) columns above.

Applicant Signature: \_\_\_\_\_ Witness Signature: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

### 3. DECLARATION

I/We, the applicant undersigned, hereby agree to the details and conditions of this tender application, including the tender criteria, and, if approved, hereby apply to the Director-General for the transfer of the shares to be registered in the Share Register.

If my/our application is successful, I/we agree to pay the required GST amount, transfer fee and the relevant management charges related to the shares to NSW Department of Primary Industries, prior to the transfer being processed.

I/We understand that if this tender is accepted, the transfer does not become effective until the Director-General approves it and the transaction is registered in the Share Register and a Fishing Business Determination is issued.

I/we understand that if I fail to comply with the reasonable requirements of the Minister regarding this tender (including the payment of the purchase price, stamp duty, fees and charges and GST) within 21 days of being informed of the acceptance of the tender, the tender may be refused at the absolute discretion of the Minister and the relevant shares offered to the next eligible tender.

I/We understand that if I/we or any one of us have taken part in a buy-out scheme that I/we must abide by any conditions of re-entry to the commercial fishing industry set out in the relevant buy-out deed of release.

I/We certify that I/we have authority to sign this form on behalf of the company, any partners, other shareholders or any other parties with an interest in this tender and/or its components as determined by the Director-General.

I/We declare that the information provided on this form and associated documentation is, to the best of my/our knowledge, true and correct.

I/We declare that I am ordinarily a resident of Australia (within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth), or if applying as a company, that the company has less than 20% foreign ownership (within the meaning of the *Corporations Act 2001* of the Commonwealth).

**Applicant name(s):**

**Name of Signatory and Position held (if company):**

**If jointly owned, all parties must sign**

**Signature(s) and date:**

  

Date:     /     /

**WITNESS**

**I certify that this application is signed in my presence by the Applicant(s):**

**Witness name:**

**Witness address:**

**Signature and date:**

  

Date:     /     /

