

Fisheries Management (Yarrahapinni Wetlands Aboriginal Cultural Fishing Special Approval) Order 2023

under the

Fisheries Management Act 1994

I, SEAN SLOAN, Deputy Director General, Fisheries with delegated authority of the Minister and Secretary under sections 227 and 228 of the *Fisheries Management Act 1994* (the Act), make this order under sections 37(1)(d) and 37(3)(b) of the Act.

Dated this 28th day of March 2023



SEAN SLOAN

Deputy Director General Fisheries
Department of Primary Industries
Department of Regional NSW

Part 1 Preliminary

1. Name of Order

This order is the *Fisheries Management (Yarrahapinni Wetlands Aboriginal Cultural Fishing Special Approval) Order 2023*.

2. Commencement and duration

- (1) This order commences on the date it is published in the *NSW Government Gazette*.
- (2) This order will remain in force for 3 years commencing on the date of publication.

3. Definitions

- (1) In this order:
LCF means a cultural fisher who is listed in Schedule 2 to this order.
YWCF – see clause 4.

YWACF Area refers to the Yarrahapinni Wetlands Aboriginal Cultural Fishing Area - see clause 5.

the Regulation means the Fisheries Management (General) Regulation 2019.

immediate vicinity means an area in which an individual is physically present with another individual where those individuals can see, hear, and direct the activities of each other.

- (2) Words and expressions in this order have the same meaning as they have in the Regulations unless otherwise specified in this order.

4. Persons to whom this Order applies

- (1) This order applies to all YWCFs.
- (2) A LCF is a YWCF.
- (3) An Aboriginal person is a YWCF if that person is in a category and meets the criteria for that category in the Table.

Table

Category	Criteria
Child or dependent	<ol style="list-style-type: none">The person is less than 18 years of age and is:<ol style="list-style-type: none">a child of a LCF by blood, marriage, de-facto marriage, adoption, step, fostering or kinship care who is usually resident in the same household as the LCF, ora child of a LCF by blood, marriage, de-facto marriage, adoption, step, fostering or kinship care who is not usually resident in the same household as the LCF because of parental separation.A person is less than 18 years of age and is a lineal descendant of a LCF such as a grandchild, great-grandchild or great-great-grandchild of a LCF.
Young adult	The person is over the age of 18 and was a child or dependent as defined by the criteria in this table on the date on which this order commenced.
Friend or relative who is not a child, dependent or young adult as per the category and criteria in this table.	The person is known to a LCF and is participating in fishing activities within the immediate vicinity of an LCF, child, dependant or young adult described in this table.

5. Waters to which this order applies

- (1) This order applies to the YWACF Area.
- (2) The **YWACF Area** is the all waters within the Yarrahapinni Wetlands National Park and its creeks and tributaries extending upstream of a line drawn from the southwest entrance to Yarrahapinni Wetlands at 30° 54.158'S, 152° 59.200'E,

then in a northerly direction for approximately 350 metres to the point 30° 53.963'S, 152° 59.245'E, then in an north-easterly direction for approximately 300 metres to the point 30° 53.898'S, 152° 59.414'E, and then in a south-easterly direction of approximately 210 metres to the eastern side of the rock revetment adjacent to Golden Hole.

6. Aboriginal cultural fishing

- (1) This order authorises a YWCF:
 - (a) to take fish in the YWACF Area for the purposes of Aboriginal cultural fishing,
 - (b) possess the fish taken under (a) for the purpose of Aboriginal cultural fishing, and
 - (c) to carry out the fishing activities described in the order in the YWACF Area for the purposes of Aboriginal cultural fishing.
- (2) This order does not authorise a YWCF to take fish from the YWACF Area for sale.

Part 2 Special Approvals – Fishing gear and fishing activities

7. Fishing gear

- (1) It is lawful for a YWCF to take fish using recreational gear and recreational methods outlined in the Regulation within the YWACF Area.
- (2) Despite clause 50 of the Regulation, it is lawful for a YWCF to hook a crab using a crab wire, but the crab wire must not penetrate the crab's shell or otherwise damage or harm the crab.
- (3) Despite clause 52 of the Regulation, it is lawful for a YWCF to use a spear gun aided by lights in the YWACF Area for the purpose of taking fish.
- (4) In this clause –

spear gun means a spear or similar device and includes a traditional-style hand or rubber propelled straight shafted spear constructed of natural or synthetic materials with a single spear point or prong, or multi-pronged head.

crab wire means an implement made from a small-diameter, round, steel bar, with one end bent into a right-angle hook, which is hooked behind the crab to drag within reach of hand capture.

8. Fishing activities

- (1) Despite clause 87 of the Regulation, a YWCF may shuck rock lobster and turban shell and have shucked lobster and turban shell in their possession, in or on or within 100 metres of the high water mark of waters in the YWACF Area.
- (2) Despite clause 88 of the Regulation, a YWCF may shuck abalone, or have shucked abalone in their possession, in or on or within 100 metres of the high water mark of waters in the YWACF Area.

Part 3 Special Approvals – Bag limits

9. Bag limits

Despite clauses 8, 9 and 10 of the Regulation, the daily limit and possession limit for a species of fish are specified in Schedule 1 to this order.

Note. Other than where expressly stated, this order does not authorise fishing activities in contravention of the Act or any regulations under the Act.

Schedule 1

Species	Daily Limit	Possession Limit
Abalone	10	10
Flathead (Other than Dusky Flathead)	40	40
Bream and Tarwhine	40 in total	40 in total
Tailor	40	40
Blue Swimmer Crab	40	40
Trevallies	40	40
Luderick (Blackfish)	40	40
Murray Cod	4	8
Pipi*, Cockle or Blue Mussels (combined species limit)	100	100
All other species	Twice the daily limit specified in Division 2 of Part 2 of the Regulation	Twice the possession limit specified in Division 2 of Part 2 of the Regulation

*Under fisheries regulations, a person must not take pipis except for use as bait and only take pipis from within 50 metres of the high water mark and not remove them from within 50 metres of the high water mark.

Schedule 2 Listed Cultural Fisher (LCF)

Marilyn Smith (Aunty Mulla-Elder)
 Hannah Smith
 Adrian Smith
 Noah Seccombe
 Elaine Carmady
 Matt Smith
 Bruce Carmady
 Elizabeth Smith
 Linda Smith
 Bradley Smith
 Terrence Smith
 Rebecca Hodgetts
 Zac Smith
 Sabrina Annakin
 Taliea Smith
 Ryan Clarke
 Sharon Smith (Aunty Sha-Elder)
 Neeyan Smith
 Graeme Smith, Snr (Uncle Tiger Elder)
 Graeme Smith Jnr
 Betty Smith
 Herbert Marshall (Elder)
 Lisa Davis
 Chante Smith
 Jarred Reeves
 Robert Smith
 Tarah Smith
 Tyan Leonard
 Chris Leonard
 Than Smith
 Zakayah Winterburn

Madeline Donovan (Elder)
 Neville Donovan Snr (Elder)
 Debbie Lardner
 Conrad Lardner
 Neville Donovan Jnr
 Kelly Lanesbury
 Natasha Donovan
 Michelle Smith
 Fabri Blacklock
 Reece Pacey
 Kelly Pacey
 Selina Smith
 Daniel Donovan
 Ashlea Donovan
 Karen Blanch
 Nathan Blanch
 Melanie Orchard
 Stacey Donovan
 Lesley Page
 Kevin Hicklin
 Ethan Hicklin
 Darrel Donovan (Uncle Grem Elder)
 Graeme Donovan
 Carli-Anne Donovan
 Semi Bula Jnr
 Koneisha Bula
 Jie Godfrey
 Cathy Bula (Elder)
 Semi Bula Snr (Elder)
 Paul Bula
 Mila Roko

Joe Roko
Peter Bula
Nakita Bula
Franklin Riley (Elder)
Dannielle Riley
Steven Allan Snr
Dorothy Riley
Merinda Allan
Christopher Green
Owen Allen Snr
Jane Riley
John Hohora
Eileen Riley
Michael Riley Snr
Cheryl Donovan (Elder)
Reg Donovan Snr (Elder)
Reg Donovan Jnr
Simon Donovan
Nicholie Williams
Garry Williams
Kristy Donovan
Mirinda Donovan
Paul Smith
Veronica Bartley
Michael Bale
Steven Jackson
Jamie Jackson
Cloe Squires
Nerida Hardie
Allan Hardie
Dorothy Edwards (Elder)
Robert Edwards (Elder)

George Edwards
Melissa Edwards
Bridget Jarrett
Victor Buchannan Snr
Tamika Buchannan
Amber Seccombe Flanders
Bernie Harada
Vicki Jarrett
Jacqueline Jarrett
Shirleen Jarrett
Ronda Jarrett
Shaun Robinson
Ivan Robinson
Liam Potter
John Marshall (Elder)
Holly Heinz
Johnathan Cooper
Georgia Heinz
Maxine Jarrett
Victoria Jarrett
Cadence Jarrett
Elvis Jarrett
Etika Jarrett
Sandra Hicklin - Donovan (Elder)
Lorain Donovan
Debbie Donovan
Chels Marshall
Francine Marshall
Lustin Edwards
Chris (Bill) Edwards Marshall
Cinnamon Jarrett
George Earnest