

Fisheries (Fishing Gear) Declaration 2020

Disallowable instrument DI2020-113

made under the

Fisheries Act 2000, s 17 (Declaration of fishing gear)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Fisheries (Fishing Gear) Declaration 2020* (the *instrument*). It has been prepared to assist the reader of the instrument and to help inform debate on it. It does not form part of the instrument and has not been endorsed by the Assembly.

The statement should be read in conjunction with the instrument. It is not and is not meant to be, a comprehensive description of the instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of the provision, this being a task for the courts.

Background

The *Fisheries Act 2000* (the **Act**) provides for the protection and conservation of native fish species and their habitats, and for the sustainable management of fisheries to ensure high quality and viable recreational fishing.

In addition, the Act enables management of commercial fish production and fishing enterprises, fish dealing and live fish transport to ensure that the sustainable management of fisheries is consistent with other Australian jurisdictions.

The Act was reviewed in 2018 in order to ensure its ongoing effectiveness and to enable it to address modern fisheries management issues, such as the ability to declare prohibited fishing gear. Along with the broader review of the Act, restrictions on recreational fishing, such as allowable gear, are assessed from time to time to review effectiveness and ensure they reflect current knowledge and practice.

Part 3 of the Act enables the Minister and the Conservator to set several restrictions on recreational fishing in public waters. Section 17 of the Act permits the Minister, by way of a disallowable instrument, to declare fishing gear that may be used for taking fish and to declare fishing gear that is prohibited from use in public waters.

Overview

This instrument prescribes the use of fishing gear.

This instrument makes three additions to existing declaration of fishing gear (DI2016-282):

- 1) A definition of *open-top pyramid net* has been included
- 2) A definition of *opera house net* has been included
- 3) Prohibited gear is now included

The fish species named in this instrument have been identified by their scientific names in addition to their common name to remove any ambiguity associated with common name usage.

Outline of provisions

Clause 1 Name of instrument

This clause names the instrument as the *Fisheries (Fishing Gear) Declaration 2020*.

Clause 2 Commencement

This clause provides that the instrument commences on the day after its notification day.

Clause 3 Fishing gear

In this clause, the Minister declares the fishing gear that may be used in public waters and the fishing gear prohibited in public waters, as that described in schedule 1 of the instrument. The contents of schedule 1 are outlined below.

Schedule 1 Fishing gear

Schedule 1 provides the fishing gear that may be used for taking fish (part 1, permitted fishing gear), and the fishing gear that is prohibited for taking fish (part 2, prohibited fishing gear).

Part 1 Permitted fishing gear

Clause 1.1 of schedule 1 provides that the following fishing gear may be used by a person in open waters: no more than ten baited lines for taking yabbies, no more than two rods or handlines with no more than two hooks per rod or handline for taking any other fish, and no more than five hoop nets or open-top pyramid nets in total for taking yabbies and freshwater shrimp and prawns. A landing net may also be used.

Clause 1.2 provides that hoop nets and open-top pyramid nets are to be used only for taking yabbies and freshwater shrimp and prawns.

Clause 1.3 provides that hoop nets and open-top pyramid nets are not permitted to be used for taking fish in the nature reserves in the Murrumbidgee River corridor.

Clause 1.4 provides that the following fishing gear may be used by a person in trout waters: one rod with no more than two hooks for use with artificial flies or lures and a landing net in conjunction with a rod.

The purpose of this clause is to limit excessive take of permitted fish species from trout waters during recreational fishing activities and to protect non-target species, including threatened species declared under the *Nature Conservation Act 2014*.

Clause 1.5 provides that any fishing gear not referred to in the schedule including other enclosed traps, or the use of fishing gear in a manner not referred to in the schedule, is not permitted in public waters.

Part 2 Prohibited fishing gear

Clause 2.1 provides that opera house nets are prohibited for taking fish in all public and private waters in the ACT. Opera house nets are defined in the Dictionary to the instrument. Prohibiting the use of these nets in all waters aims to further reduce the risk to native air-breathing animals such as platypus, rakali and turtles, which can become trapped underwater in opera house nets and drown.

Dictionary

***Opera house net* definition**

The definition of ‘opera house net’ has been included in this instrument so that its use can be prohibited in both public and private waters.

The use of these nets is currently illegal in public waters, but this new provision also prohibits use in private waters, making ACT laws consistent with recent changes to Victorian fishing laws regarding opera house nets, and acting to further discourage the use and sale of these nets.

***Open-top pyramid net* definition**

The definition of *open-top pyramid net* has been included in this instrument to allow the use of this type of net for catching yabbies (*Cherax destructor*) and freshwater shrimp and prawns (members of the families Atyidae and Palaemonidae) in all open waters.

The *open-top pyramid net* definition has been included to promote the use of these nets as an alternative to opera house nets for catching yabbies and to align with Victoria and New South Wales in allowing the use of these nets.