

NORTHERN TERRITORY OF AUSTRALIA

SPANISH MACKEREL FISHERY MANAGEMENT PLAN 2004

As in force at 1 January 2010

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 January 2010

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## SPANISH MACKEREL FISHERY MANAGEMENT PLAN 2004

### Plan under the *Fisheries Act 1988*

#### Part 1 Preliminary

##### 1 Citation

This Plan may be cited as the *Spanish Mackerel Fishery Management Plan 2004*.

##### 2 Commencement

This Plan comes into operation on 1 January 2005.

##### 3 Application of Plan

This Plan applies to the Spanish mackerel fishery declared under section 22 of the Act to be a managed fishery by notice published in *Gazette G28* dated 17 July 1991 at page 2.

##### 4 Definitions

In this Plan, unless the contrary intention appears:

***allowable catch*** has the meaning in clause 6(1).

***dory*** means a vessel that is used in conjunction with the mother boat for trolling under a licence.

***fishery*** means the fishery to which this Plan applies under clause 3.

***floating handline*** means a line to which is attached only one of the following:

- (a) one hook;
- (b) one set of joined hooks.

***licence*** means a restricted licence or unrestricted licence.

**licensee** means the holder of a licence, and includes a person assisting a licensee conduct operations for the purposes of the licence.

**lure** means a device designed to attract or capable of attracting fish other than bait or berley.

**release**, in relation to a fish, means release back into the water from where it was taken as soon as practicable after it was taken.

**restricted licence** has the meaning in clause 8(1).

**spanish mackerel** means fish of the species *Scomberomorus commerson*.

**spanish mackerel restricted bait net** means a net that:

- (a) has both pocket and net made of mesh not larger than 65 mm;
- (b) has a drop of not more than 5 m; and
- (c) excluding the length of any haul lines attached to it, is not longer than 100 m or, if it is used as a surrounding net from a vessel, 200 m.

**troll line** means a line to which is attached only one of the following:

- (a) one hook;
- (b) one set of joined hooks attached to the one piece of bait;
- (c) one lure to which hooks may be attached.

**unrestricted licence** has the meaning in clause 9(2).

## **Part 2                      Management of fishery**

### **5                      Objects**

The objects of this Plan are:

- (a) to control the taking of spanish mackerel from the fishery by commercial fishing licensees, Fishing Tour Operator licensees and amateur fishers, whether taken as the principal catch or incidentally when taking fish from another fishery and whether or not the fisher releases the fish;

- (b) to ensure the fishery is not endangered, detrimentally affected or overexploited by managing the fishery in accordance with the principles of ecologically sustainable development; and
- (c) to encourage fishing in the fishery by maintaining the level and quality of the yield from the fishery and ensuring Aborigines, commercial fishing licensees, Fishing Tour Operator licensees and amateur fishers have adequate access to the fishery.

## **6 Allowable catch**

- (1) The allowable catch of spanish mackerel for a year is 450 tonne (greenweight).
- (2) The Minister may, by notice in the *Gazette*, allocate the allowable catch to a stated person or persons.
- (3) The notice may state the method (if any) by which the allowable catch is allocated.

## **7 Review of management of fishery**

- (1) The Director must conduct a review of the management of the fishery if:
  - (a) the amount of spanish mackerel taken from the fishery in a year is at least 90% of the allowable catch;
  - (b) the amount of spanish mackerel taken from the fishery in a year is at least 30% less than was taken in the previous year;
  - (c) the amount of spanish mackerel taken from the fishery in a year by Aborigines, Fishing Tour Operator licensees and amateur fishers is at least 20% less than taken by them in the previous year;
  - (d) the amount of spanish mackerel taken from the fishery in a year by commercial fishing licensees authorised to take spanish mackerel is at least 20% less than taken by those licensees in the previous year;
  - (e) the amount of fish of species other than spanish mackerel taken in a year by commercial fishing licensees authorised to take spanish mackerel while fishing for spanish mackerel is more than 10% of the amount of spanish mackerel taken by those licensees in that year; or
  - (f) the amount of spanish mackerel taken in a year by a person for whom the Minister has determined an allowable catch exceeds that catch.

- (2) For subclause (1), the amount of spanish mackerel taken from the fishery in a year is the amount decided by the Director using records, returns and information supplied by persons to the Director for the purposes of the Act.

## **Part 3                    Licensing**

### **8                    Restricted licences**

- (1) A restricted licence is a Spanish Mackerel Fishery licence granted to a person because the person held a pelagic licence endorsed for trolling in 1992.
- (2) Subject to subclause (3), the licensee may:
  - (a) take fish in accordance with the licence; and
  - (b) transfer the licence to another person.
- (3) A person to whom the licence is transferred on or after 1 July 1994 may not take fish under the licence but may transfer the licence to another person.

### **9                    Unrestricted licences**

- (1) A person who holds 2 restricted licences may surrender both licences to the Territory.
- (2) On the surrender of the licences, the Director must issue to the person one Spanish Mackerel Fishery licence (an ***unrestricted licence***).
- (3) The licensee may:
  - (a) take fish in accordance with the licence; and
  - (b) transfer the licence.

### **10                  Number of licences**

- (1) Subject to subclauses (2) and (3), the Director must not grant more licences than the number of licences held before the commencement of this Plan.
- (2) If a licensee surrenders a licence to the Territory (other than under clause 9) or a licence is cancelled or expires without being renewed, the number of licences that may be in force is reduced by one.

- (3) If a person is issued an unrestricted licence under clause 9 on the surrender of 2 licences, the number of licences that may be in force is reduced by one.

## **Part 4 Commercial fishing**

### **11 Application of Part**

This Part applies to a licensee conducting operations for the purposes of a licence.

### **12 Prohibition of taking and possession of certain fish**

A licensee must not take or have possession of the following species:

- (a) barramundi (*Lates calcarifer*);
- (b) mud crab (a crab of the genus *Scylla*);
- (c) shark (a fish of the Class Chondrichthyes);
- (d) threadfin salmon (*Polynemus sheridani*).

Maximum penalty: \$5 000.

### **13 Prohibition on use of fishing gear to take fish**

A licensee must not use fishing gear, other than any number or combination of troll lines, floating handlines or rods, to take fish under the licence.

Maximum penalty: \$10 000.

### **14 Prohibition on use of fishing gear to take bait**

- (1) A licensee must not use fishing gear, other than a spanish mackerel restricted bait net, to take bait.

Maximum penalty: \$5 000.

- (2) A licensee who is using a spanish mackerel restricted bait net must not do any of the following:

- (a) haul the net other than by hand;
- (b) stake or otherwise fix the net at more than one end;
- (c) use the net in less than 30 cm of water while clearing the catch in the net;

- (d) use the net in the Mary River Fish Management Zone within the meaning of the *Barramundi Fishery Management Plan 1998*;
- (e) use the bait taken from the net other than as bait to take fish under his or her licence.

Maximum penalty: \$5 000.

## **15 Dories**

- (1) A licensee must not use a dory that is more than 6.5 m long.

Maximum penalty: \$10 000.

- (2) A licensee must not operate a dory independently from the mother boat for more than 6 hours.

Maximum penalty: \$10 000.

- (3) A licensee must not operate more than 2 dories under the licence.

Maximum penalty: \$10 000.

## **Part 5 Amateur fishing**

### **16 Limit in number of spanish mackerel in possession of person carrying out amateur fishing**

- (1) A person carrying out amateur fishing must not have possession of more than 2 spanish mackerel.

Maximum penalty: For possession of 3 spanish mackerel – \$5 500.

For possession of 4 or more spanish mackerel – \$10 000 plus \$1 000 for each spanish mackerel in possession that is in excess of 4.

- (2) Subclause (1) does not apply to spanish mackerel:

- (a) taken under a licence; or
- (b) at the person's permanent residence.



**Part 6                      Repeal**

**17                      Repeal of *Spanish Mackerel Fishery Management Plan***

The *Spanish Mackerel Fishery Management Plan* that came into operation on 1 February 1993 is repealed.

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2 LIST OF LEGISLATION

#### ***Spanish Mackerel Fishery Management Plan (SL No. 44, 2004)***

Notified	1 January 2005
Commenced	1 January 2005

#### ***Spanish Mackerel Fishery Management Plan Amendment 2009 (SL No. 41, 2009)***

Notified	21 December 2009
Commenced	1 January 2010

### 3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: cl 1 and 14.

### 4 LIST OF AMENDMENTS

cl 12 – 15	amd No. 41, 2009, cl 5
cl 16	amd No. 41, 2009, r 4