



Victoria Government Gazette

No. S 373 Thursday 1 December 2016
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Fisheries Act 1995

FISHERIES NOTICE NO. 10/2016

I, Travis Dowling, Executive Director Fisheries, as delegate of the Minister for Agriculture and having considered the outcome of consultation in accordance with section 3A of the **Fisheries Act 1995** (the Act), make the following Fisheries Notice under section 152 of the Act:

Dated 1 December 2016

TRAVIS DOWLING
Executive Director Fisheries

FISHERIES (HAZELWOOD PONDAGE) NOTICE NO. 10/2016

1. Title

This Notice may be cited as the Fisheries (Hazelwood Pondage) Notice No. 10/2016.

2. Objectives

The objectives of this Notice is to regulate fishing on Hazelwood Pondage.

3. Authorising provision

This Notice is made under sections 67, 114 and 152 of the Act.

4. Commencement

This Notice comes into operation on the day it is published in the Government Gazette.

5. Definitions

In this fisheries notice –

the Act means the **Fisheries Act 1995**;

Executive Director means the Executive Director Fisheries within the Department of Economic Development, Jobs, Transport and Resources;

open boat fishing day means a day determined to be an open boat fishing day under clause 9.

general permit means a general permit issued under section 49 of the Act;

Hazelwood Pondage means the waterbody adjoining Hazelwood Power Station in the Latrobe City municipality and includes all the waters of the pondage to its junction with the mouth of Eel Hole Creek to the east of Nadenbouschs Road.

‘next to’ in relation to waters includes –

- (a) within 100 meters of those waters; or
- (b) on any public land adjacent to the waters; or
- (c) on any road or public car park near the waters.

‘public land’ has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

prohibited fishing area means an area identified in the map in the Schedule as waters where vessels are prohibited.

6. Requirement to hold a recreational fishing licence

A person must not take or attempt to take fish from Hazelwood Pondage unless he or she –

- (a) holds a recreational fishery licence; or
- (b) is exempted under the Act from taking fish for any purpose other than for sale without holding a recreational fishery licence.

Penalty: 20 penalty units

Note: it is an offence under section 44(1)(b) of the Act for a person to possess recreational fishing equipment in, on or next to Victorian waters unless authorised to do so by a recreational fishery licence or is otherwise authorised under the Act.

SPECIAL

7. Application of Fisheries Regulations 2009

- (1) The Fisheries Regulations 2009 apply as if a reference to inland waters includes a reference to Hazelwood Pondage.
- (2) A person in, on or next to Hazelwood Pondage must comply with the Fisheries Regulations 2009.

Penalty: 20 penalty units

Note: Provisions of the Act or regulations that apply to Victorian waters (i.e. not limited to inland waters or marine waters) apply automatically in respect of Hazelwood pondage. This includes catch limits, size limits and closed seasons.

8. Open boat fishing days

- (1) The Executive Director may by instrument published in the Government Gazette determine a day to be an Open boat fishing day.
- (2) The Executive Director may, by further instrument published in the Government Gazette amend or revoke a determination made under this clause.

Note: Open boat fishing days are days on which boat based fishing is permitted on Hazelwood Pondage without a permit between sunrise and sunset.

9. Prohibition of boat fishing on Hazelwood Pondage without permit

- (1) For the purposes of section 67 of the Act, the taking of any fish from, or the possession of any fish on-board a boat in, on or next to Hazelwood Pondage is prohibited.

Note: A failure to comply with this prohibition is an offence under section 67(3) of the Act. A maximum penalty of 100 penalty units or 6 months imprisonment or both applies.

- (2) A person must not use a boat for or in connection with the taking, possession or transporting of fish in, on or next to Hazelwood Pondage.

Penalty: 20 penalty units

- (3) A person must not possess recreational fishing equipment on-board a boat in, on or next to Hazelwood Pondage.

Penalty: 20 penalty units

- (4) The prohibition under sub-clause (2) is an owner onus offence for the purposes of Part 4.7 of the **Marine Safety Act 2010**.

- (5) Sub-clauses (1), (2) and (3) do not apply to a person acting in accordance with a general permit that specifically authorises boat-based fishing on Hazelwood Pondage.

Note: A boat is defined under the Act to mean any means of transportation on water, and therefore includes kayaks, personal watercraft and canoes.

10. Prohibition on use or possession of recreational fishing equipment in prohibited fishing areas

For the purposes of section 114 of the Act, the use or possession of recreational fishing equipment in, on or immediately adjacent to a prohibited fishing area is prohibited.

Note: A failure to comply with this prohibition is an offence under section 114(3) of the Act. A maximum penalty of 100 penalty units or 6 months imprisonment or both applies.

11. Catch and possession limits

- (1) For the purposes of the Act, the catch limit with respect to –
 - (a) the taking of barramundi from Hazelwood Pondage; or
 - (b) the possession of barramundi in, on or next to Hazelwood Pondage –is 1 fish.

- (2) For the purposes of the Act, the catch limit with respect to –
 - (a) the taking of any fish from a boat; or
 - (b) the possession of any fish in or on board a boat –
in, on or next to Hazelwood Pondage is 0 fish.
 - (3) For the purposes of the Act, the catch limit with respect to –
 - (a) the taking of any fish other than barramundi or a noxious aquatic species from Hazelwood Pondage; or
 - (b) the possession of any fish other than barramundi or a noxious aquatic species, on or next to Hazelwood Pondage –
is 0 fish.
 - (4) For the purposes of the Act, the catch limit with respect to the possession any fish in a prohibited fishing area is 0.
- Note:** There are offences in sections 68A and 68B of the Act relating to taking or possessing more fish of a species than the catch limit specified in a Fisheries Notice. Various penalties apply.
- (5) Sub-clause (2) does not apply to a person acting in accordance with a general permit that specifically authorises boat-based fishing on Hazelwood Pondage.

12. Offence to use live fish as bait

A person must not use any live fish as bait in or on Hazelwood Pondage.

Penalty: 20 penalty units

Note: under section 76 of the Act it is an offence to possess any live noxious aquatic species. A maximum penalty of 100 penalty units applies.

13. Closed season

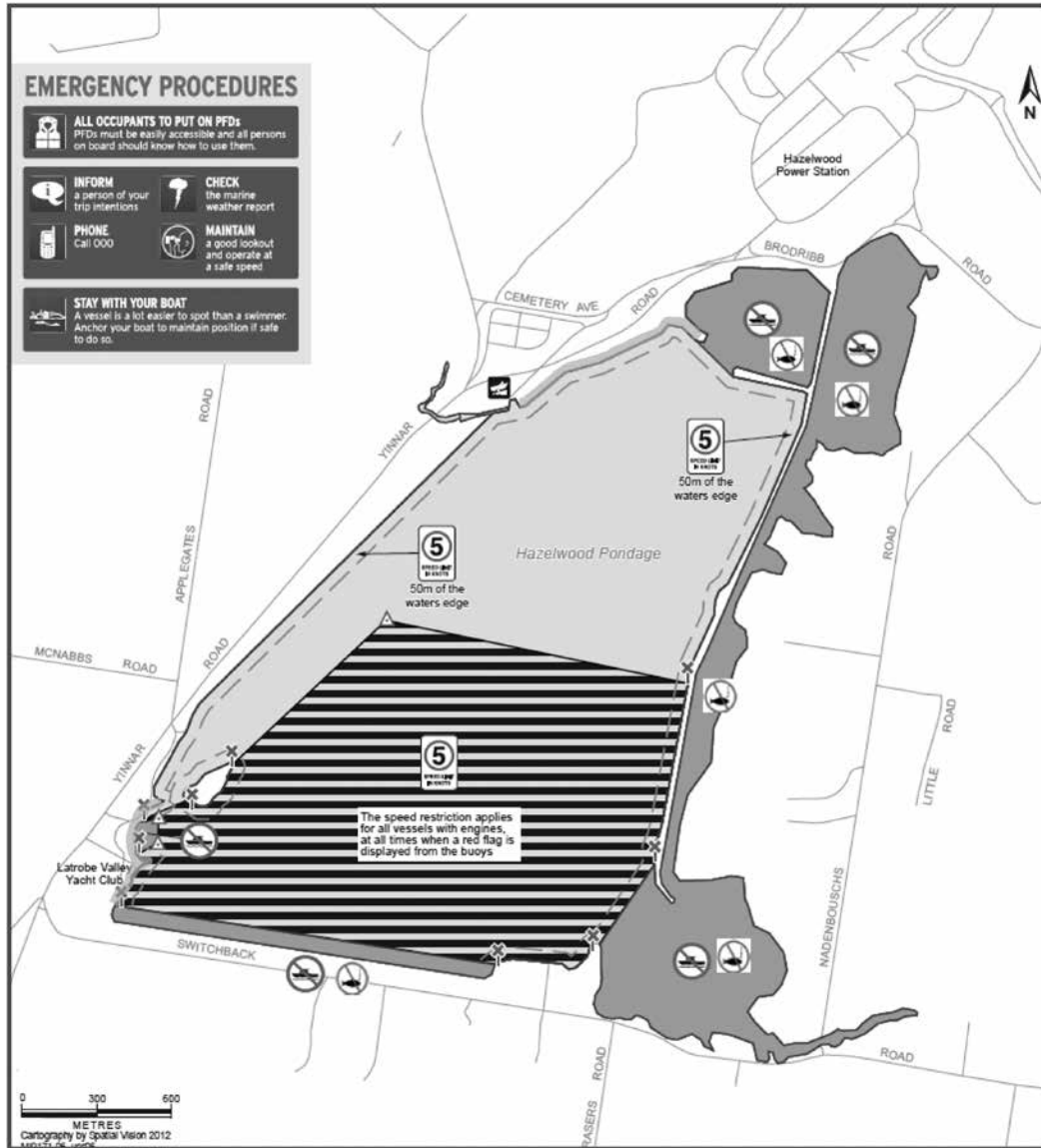
- (1) For the purposes of section 67 of the Act, the closed season for the taking of any fish from Hazelwood Pondage is from the date this fisheries notice comes into effect to midnight on Thursday 8 December 2016.
- (2) For the purposes of section 67 of the Act, the taking of any fish from, or the possession of any fish in, on or next to Hazelwood Pondage during the closed season is prohibited.
Note: A failure to comply with this prohibition is an offence under section 67(3) of the Act. A maximum penalty of 100 penalty units or 6 months imprisonment or both applies.
- (3) Sub-clause (1) does not apply to a person acting in accordance with a permit under section 49 of the Act that specifically authorised the taking of fish in Hazelwood Pondage during the closed season.

14. Revocation

- (1) Unless sooner revoked, this Notice will be automatically revoked 12 months after the day it was published in the Government Gazette.

Note: Section 152(3) of the Act provides that if a Fisheries Notice is inconsistent with any regulations, management plan, Ministerial direction, licence or permit, the Fisheries Notice prevails to the extent of the inconsistency.

Schedule Prohibited Fishing Area (as marked)



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