

1991—No. 219

**FISHERIES AND OYSTER FARMS ACT 1935—
REGULATION**

(Fisheries and Oyster Farms (Solitary Islands Marine Reserve)
Regulation 1991)

NEW SOUTH WALES



[Published in Gazette No. 62 of 26 April 1991]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Fisheries and Oyster Farms Act 1935, has been pleased to make the Regulation set forth hereunder.

IAN ARMSTRONG
Minister for Agriculture and Fisheries.

Citation

1. This Regulation may be cited as the Fisheries and Oyster Farms (Solitary Islands Marine Reserve) Regulation 1991.

Commencement

2. This Regulation commences on 11 May 1991.

Application of Regulation

3. (1) A requirement of this Regulation which relates to the Reserve as a whole must be complied with in addition to any requirement which relates only to a particular zone within the Reserve.

(2) This Regulation does not operate so as to prohibit any activity authorised by a written approval granted by the Director-General under clause 13.

Definitions

4. In this Regulation:

- “commercial collecting”** means the taking of fish or gathering of marine flora by any means for the purpose of sale;
- “commercial fisherman”** means a fisherman licensed under section 24C of the Act;
- “commercial line fishing”** means the use or possession of any commercial fishing line prescribed as lawful under the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989;
- “commercial netting”** means the use or possession of any commercial net prescribed as lawful under Division 2 of Part 4 of the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989;
- “commercial tourist activity”** means the undertaking of any activity associated with tourism for commercial gain, including dive charters, diver certification training, snorkelling tours, whale watching tours, fishing charters, boat tours and natural history excursions but excluding any licensed commercial fishing activity;
- “commercial trapping”** means the use or possession of any trap prescribed as lawful under Division 2 of Part 5 of the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989;
- “fish”** means all or any of the varieties of marine, estuarine or fresh-water fishes (whether indigenous or not) and their young, fry and spawn, and includes crustacea and oysters and all other marine, estuarine and fresh-water animal life, and any part of a fish as so defined, but does not include any species of marine mammal or reptile;
- “general use zone”** means the areas described in Schedule 1;
- “marine flora”** includes seagrasses, seaweeds, mangroves and saltmarsh plants;
- “recreation zone”** means the areas described in Schedule 2;
- “recreational aquarium collecting”** means the taking of fish or gathering of marine flora for a private aquarium;
- “recreational fishing competition”** means a fishing competition between members of a group of persons engaged in spear or line fishing for the purpose of recreation;
- “recreational line fishing”** means taking or attempting to take fish by means only of a line with 6 or less hooks attached;
- “recreational trapping”** means the use or possession of a trap as described by clauses 53 (1) or 54 (1) of the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989;
- “refuge zone”** means the areas described in Schedule 3;

“**Reserve**” means the aquatic reserve declared by notification published in Gazette No. 59 of 19 April 1991 at page 2967 under section 16A of the Act, known as the Solitary Islands Marine Reserve and includes the general use zone, the recreation zone, the refuge zone and the sanctuary zone;

“**sanctuary zone**” means the areas described in Schedule 4;

“**spearfishing**” means taking or attempting to take fish by means of a spear, speargun or similar device or by means of a bow and arrow;

“**the Act**” means the Fisheries and Oyster Farms Act 1935.

Prohibited activity in Reserve

5. A person must not, within the Reserve:

- (a) take, or attempt to take, any coral; or
- (b) engage in mining or exploration (in connection with mining or prospecting) of the seabed within 1 kilometre, measured horizontally, below mean high water mark of any of the islands or in any areas which are shallower than 20 metres at low tide; or
- (c) conduct or participate in a recreational fishing competition; or
- (d) carry out any commercial tourist activity.

Prohibited activity in general use zone

6. A person must not, within the general use zone:

- (a) engage in commercial collecting; or
- (b) gather, damage or destroy, or attempt to gather, damage or destroy, any marine flora except green sea lettuce (*Ulva lactuca*) or blackfish weed (*Enteromorpha intestinalis*).

Prohibited activity in recreation zone

7. A person must not, within the recreation zone:

- (a) engage in commercial collecting;
- (b) take, or attempt to take, any fish except abalone, beach worms, crabs, crayfish, cunjevoi, fin fish, oysters, pippies, sea urchins or yabbies;
- (c) engage in commercial trapping or recreational trapping of any fish except rock lobsters and crabs; or
- (d) engage in commercial netting of any fish; or
- (e) gather, damage or destroy, or attempt to gather, damage or destroy, any marine flora except green sea lettuce (*Ulva lactuca*) or blackfish weed (*Enteromorpha intestinalis*).

Prohibited activity in refuge zone

8. A person must not, within the refuge zone:

- (a) take, or attempt to take, any fish except:
 - (i) fin fish by commercial line fishing or recreational line fishing; or
 - (ii) rock lobsters by means of recreational trapping or commercial trapping in those refuge zones which are situated beneath or adjacent to headlands on the mainland; or
 - (iii) fish specified in the Table to this clause by means of spearfishing; or
- (b) take, or attempt to take, marine flora; or
- (c) engage in recreational aquarium collecting.

TABLE**Allowed species for spearfishing in refuge zone**

Amberjack (*Seriola dumerilii*)
 Bream (*Acanthopagrus australis*)
 Chinaman Leatherjacket (*Nelusetta ayraudi*)
 Cobia (*Rachycentron canadus*)
 Diamond Trevally (*Alectis indica*)
 Dusky Flathead (*Platycephalus fuscus*)
 Golden Trevally (*Gnatharndodon speciosus*)
 Luderick (*Girella elevata*)
 Mulloway (*Argyrosomus hololepidotus*)
 Rainbow Runner (*Elagatis bipinnulatus*)
 Red Morwong (*Cheilodactylus fuscus*)
 Samson Fish (*Naucratospis hippos*)
 Sawtail Surgeon (*Prionurus microlepidotus*)
 Spanish Mackerel (*Indocybium Semifasciatum*)
 Sweet lip (*Plectorhinchus flavomaculatus*)
 Tailor (*Pomtomus saltatrix*)
 Tarwhine (*Rhabdosargus sarba*)
 Wahoo (*Acanthocybium solandri*)
 Yellowtail Kingfish (*Seriola lalandi*)

Prohibited activity in sanctuary zone

9. (1) A person must not, within the sanctuary zone:

- (a) take, or attempt to take, any fish; or
- (b) wilfully disturb, injure or interfere with any fish; or

- (c) gather, damage or destroy any marine flora; or
- (d) use an anchor.

(2) In this clause, “**anchor**” means any device attached to a boat by a cable, chain or rope dropped overboard so as to grip the seabed for the purpose of restricting the movement of the boat.

Exemption

10. Clauses 5, 6, 7, 8 and 9 do not apply to the removal of oysters from a leased area by the lessee or the lessee’s employees.

Approval necessary for commercial tourist activity

11. A person must not engage in commercial tourist activity within the Reserve without an approval under clause 13.

Prohibition on commercial collecting by person other than commercial fisherman

12. A person must not engage in commercial collecting within the Reserve unless the person is a commercial fisherman.

Power to grant approvals

13. The Director-General may, by order, grant an approval to a person to do anything prohibited by this Regulation, except an activity prohibited by clause 5 (b), subject to such conditions as the Director-General considers appropriate.

Offences

14. A person who commits a breach of clauses 5–9, 11 and 12 of this Regulation is guilty of an offence.

Maximum penalty: 100 penalty units in the case of a corporation; or
 50 penalty units in any other case.

Saving

15. Nothing in this Regulation affects any restriction or prohibition in any other instrument made or issued under the Act, whether before, on or after the date on which this Regulation takes effect.

SCHEDULE 1

(C1. 3)

General use zone (see accompanying map of Solitary Islands Marine Reserve)

All that area within a 3 nautical mile limit from the High Water Mark of North Solitary Island, North West Solitary Island and South Solitary Island and all coastal waters from High Water Mark due easterly to a line 3 nautical miles from the territorial sea baselines (as described in the Commonwealth of Australia Gazette No. S29, 9 February 1983) including all rivers, estuaries, lagoons, bays and inlets upstream to the tidal limit and extending from the easternmost point (High Water Mark) of Plover Island in the north southerly to the easternmost point (High Water Mark) of Muttonbird Island in the south as shown on the map entitled “Solitary Islands Marine Reserve” accompanying this Regulation, but excluding the waters described as “recreation zone”, “refuge zone” and “sanctuary zone” in Schedules 2, 3 and 4 to this Regulation and any lands or islands within the Reserve above Mean High Water Mark.

SCHEDULE 2

(C1. 3)

Recreation zone

Sandon River, Sandon Headland and Plover Island

See diagram 1 accompanying this Regulation.

Wooli Wooli River

See diagram 5 accompanying this Regulation.

North Rock

See diagram 9 accompanying this Regulation.

Red Rock Headland and Corindi River

See diagram 10 accompanying this Regulation.

Arrawarra Creek

See diagram 12 accompanying this Regulation.

Woolgoolga Headland

See diagram 13 accompanying this Regulation.

Bare Bluff

See diagram 14 accompanying this Regulation.

Moonee Creek

See diagram 16 accompanying this Regulation.

SCHEDULE 3

(C1. 3)

*Refuge zone**Sandon River*

See diagram 1 accompanying this Regulation.

Pimpernel Rock

See diagram 2 accompanying this Regulation.

Minnie Water

See diagram 3 accompanying this Regulation.

Diggers Camp

See diagram 4 accompanying this Regulation.

North Solitary Island and North West Rock

See diagram 7 accompanying this Regulation.

Station Creek Headland

See diagram 8 accompanying this Regulation.

Corindi River

See diagram 10 accompanying this Regulation.

North West Solitary Island

See diagram 11 accompanying this Regulation.

South West Solitary Island

See diagram 15 accompanying this Regulation.

Moonee Beach

See diagram 16 accompanying this Regulation.

South Solitary Island

See diagram 17 accompanying this Regulation.

Split Solitary Island

See diagram 18 accompanying this Regulation.

Muttonbird Island

See diagram 19 accompanying this Regulation.

SCHEDULE 4

(C1. 3)

*Sanctuary zone**Wooli Wooli River*

See diagram 5 accompanying this Regulation.

Jones Point

See diagram 6 accompanying this Regulation.

North Solitary Island and North West Rock

See diagram 7 accompanying this Regulation.

North West Solitary Island

See diagram 11 accompanying this Regulation.

Arrawarra Headland

See diagram 12 accompanying this Regulation.

South West Solitary Island

See diagram 15 accompanying this Regulation.

South Solitary Island

See diagram 17 accompanying this Regulation.

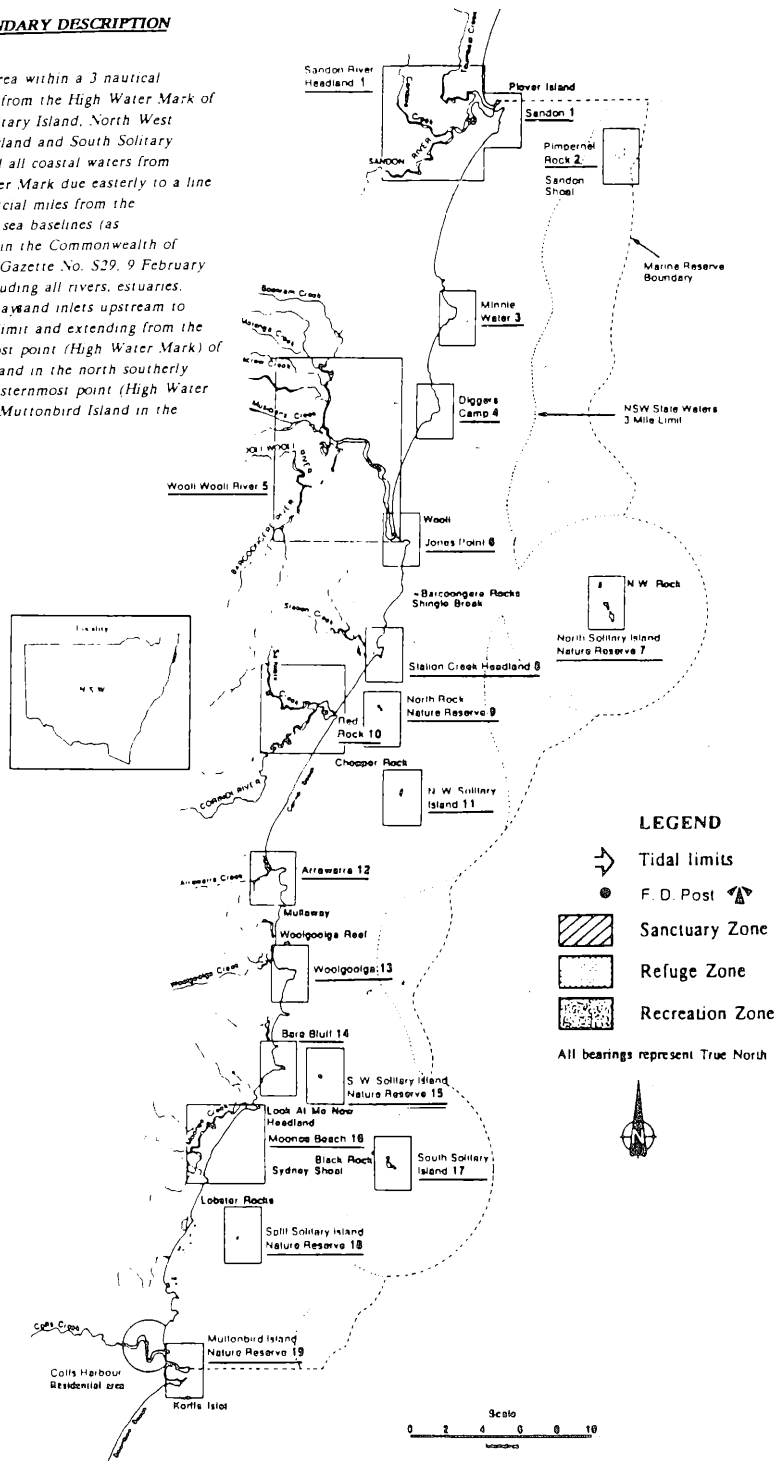
Split Solitary Island

See diagram 18 accompanying this Regulation.

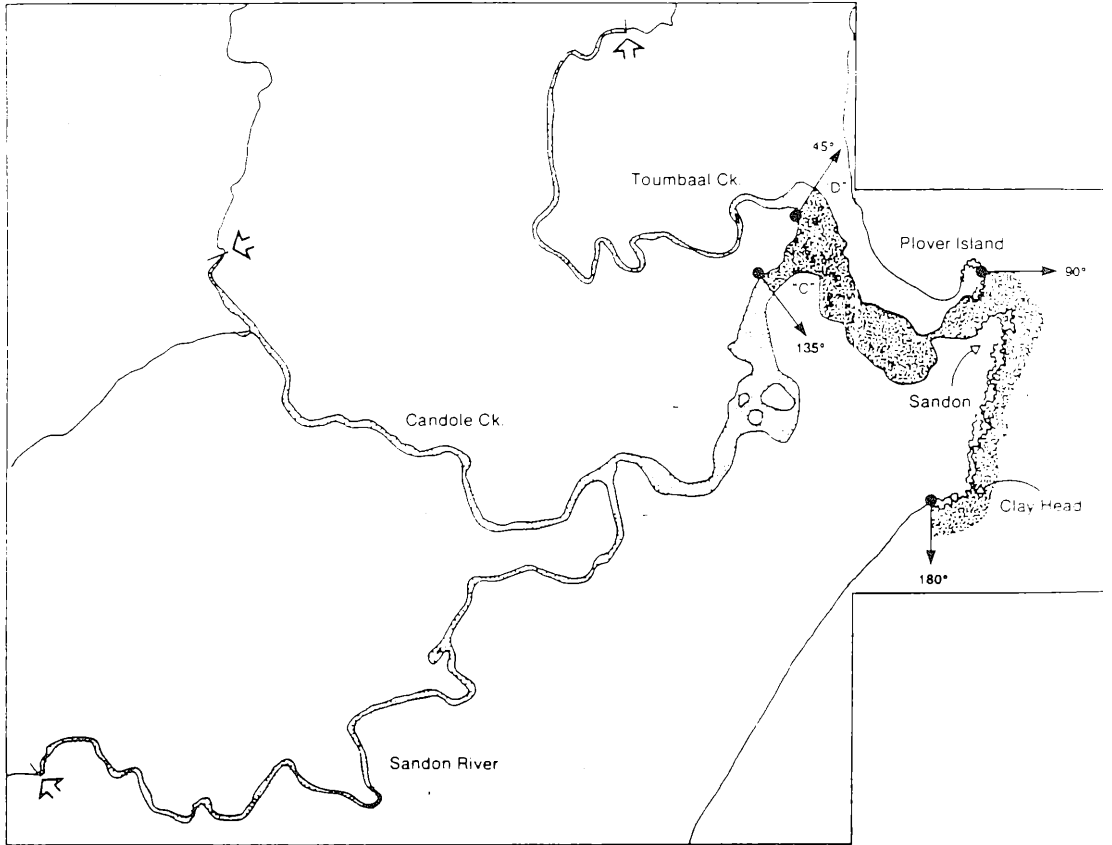
Solitary Islands Marine Reserve

BOUNDARY DESCRIPTION

All that area within a 3 nautical mile limit from the High Water Mark of North Solitary Island, North West Solitary Island and South Solitary Island and all coastal waters from High Water Mark due easterly to a line three nautical miles from the territorial sea baselines (as described in the Commonwealth of Australia Gazette No. S29, 9 February 1983) including all rivers, estuaries, lagoons, bays and inlets upstream to the tidal limit and extending from the easternmost point (High Water Mark) of Plover Island in the north southerly to the easternmost point (High Water Mark) of Muttonbird Island in the south.



I. SANDON RIVER AND SANDON HEADLAND



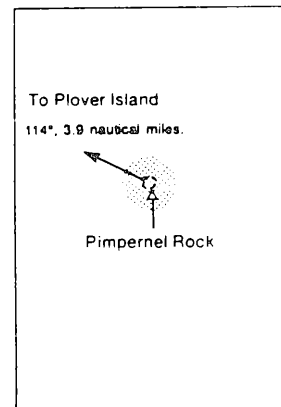
Refuge Zone (see legend)

The whole of the tidal waters of Toumbaal Creek, Candole Creek, and Sandon River including all their creeks, bays and tributaries upstream from the lines marked "C" and "D" as denoted by the hatched area in the diagram hereto.

Recreation Zone (see legend)

From MHW to 200m seawards from MLWM from the southern end of Clay Head marked "F.D. Post" to the eastern most end of Plover Island marked "F.D. Post" and all the tidal waters of the Sandon River upstream to the lines marked "C" and "D" as denoted by the hatched area in the diagram hereto.

2. PIMPERNEL ROCK
(Submerged)

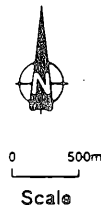


Refuge Zone (see legend)

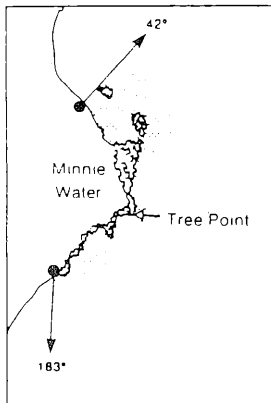
Radius of 200 m from the highest point of the submerged rock as denoted by the hatched area in the diagram hereto.

LEGEND

- Tidal limits
- F. D. Post
- Sanctuary Zone
- Refuge Zone
- Recreation Zone

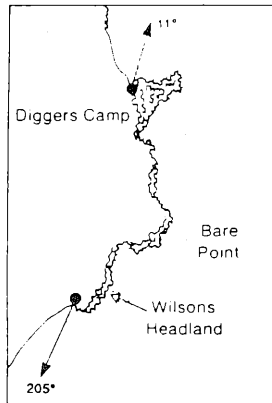


3. MINNIE WATER



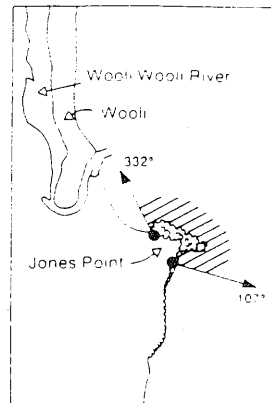
Refuge zone (see legend)
From MHW to 200m seawards from MLWM between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

4. DIGGERS CAMP



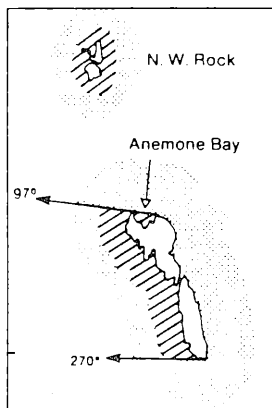
Refuge zone (see legend)
From MHW to 200m seawards from MLWM between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

6. JONES POINT



Sanctuary Zone (see legend)
From MHW to 200m seawards from MLWM between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

7. NORTH SOLITARY ISLAND AND NORTH WEST ROCK



Sanctuary Zone (see legend)
From MHW to 200m seawards from MLWM between the northernmost and southernmost extremities on the western side of North Solitary Island including "Anemone Bay" as denoted by the hatched area in the diagram hereto.
From MHW to 100m seawards from MLWM of North West Rock as denoted by the hatched area in the diagram hereto.

Refuge Zone (see legend)
From MHW to 400m seawards from MLWM, excluding Sanctuary Zone, of North Solitary Island as denoted by the hatched area in the diagram hereto.
From MHW to 300m seawards from MLWM, excluding Sanctuary zone, of North West Rock as denoted by the hatched area in the diagram hereto.

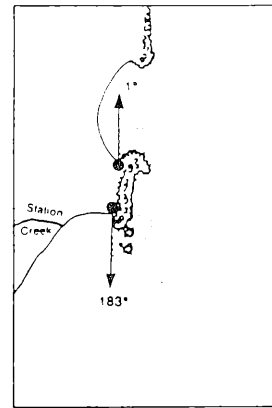
LEGEND

- Tidal limits
- F. D. Post
- Sanctuary Zone
- Refuge Zone
- Recreation Zone



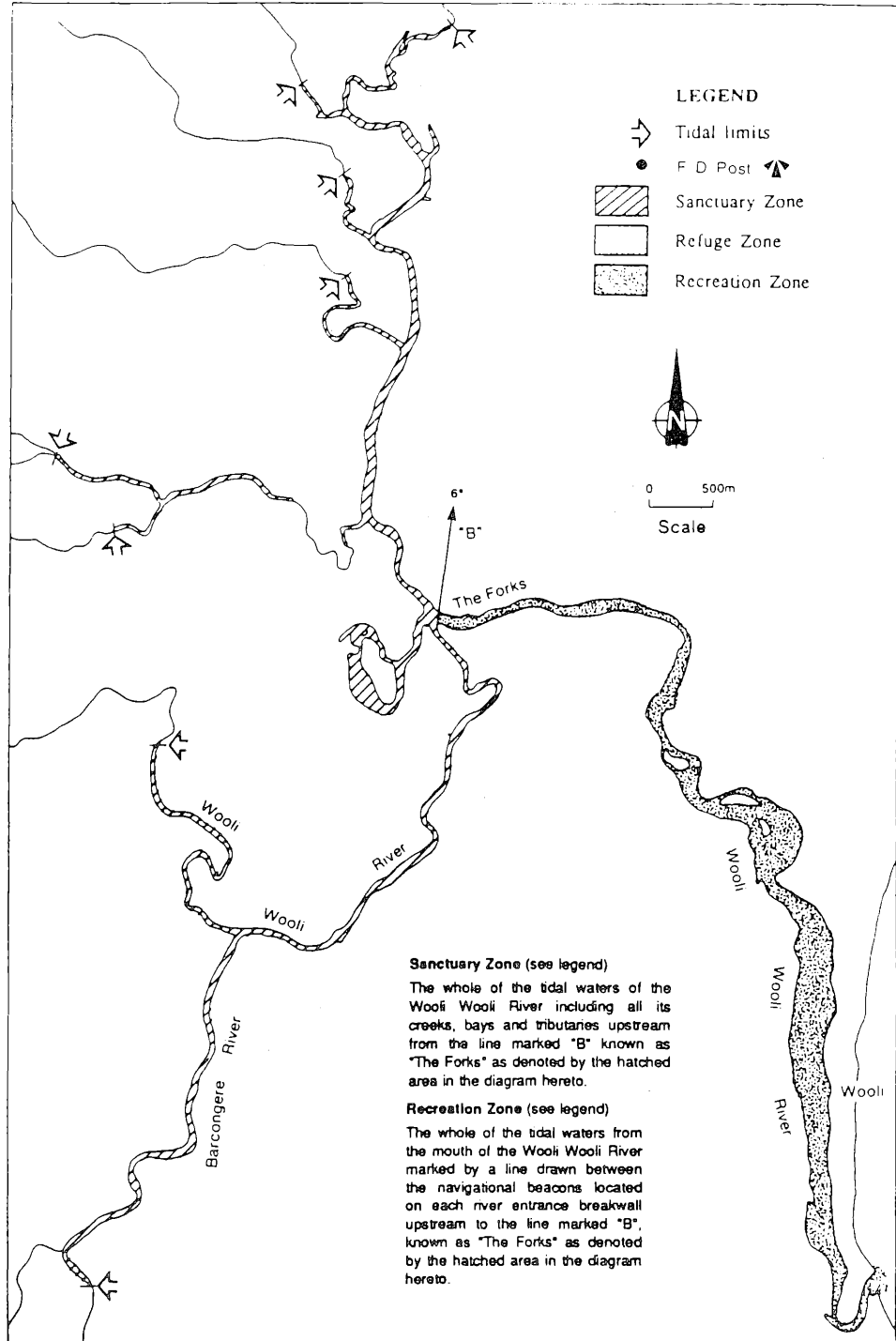
0 500m
Scale

8. STATION CREEK HEADLAND

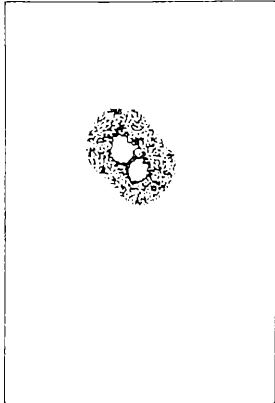


Refuge Zone (see legend)
From MHW to 200m seawards from MLWM between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

5. WOOLI WOOLI RIVER

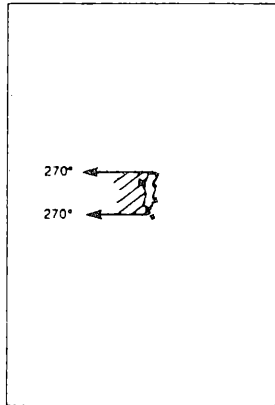


9. NORTH ROCK



Recreation Zone (see legend)
From MHW to 200m seawards from MLWM as denoted by the hatched area in the diagram hereto.

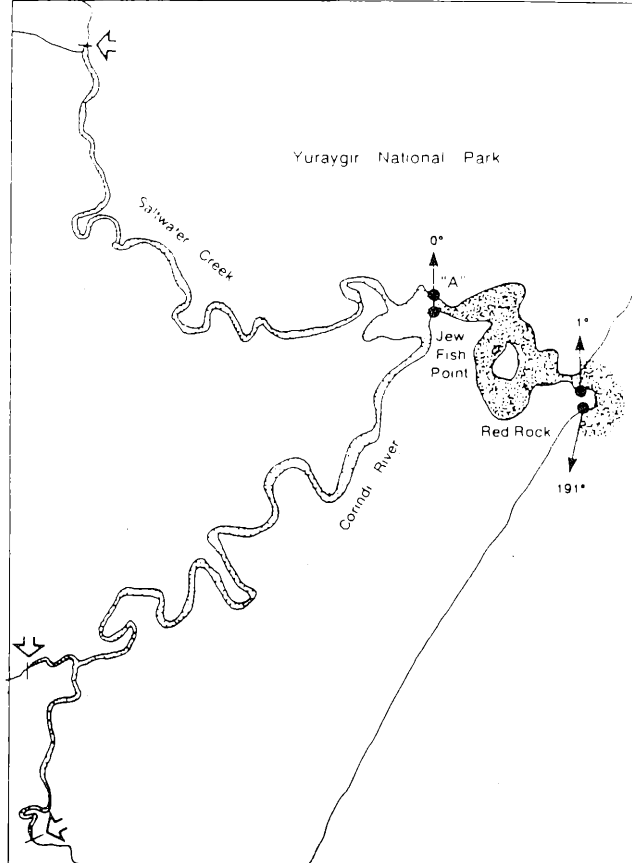
11. NORTH WEST SOLITARY ISLAND



Sanctuary Zone (see legend)
From MHW to 200m seawards from MLWM between the northernmost and southernmost extremities on the western side as denoted by the hatched area in the diagram hereto.

Refuge Zone (see legend)
From MHW to 400m seawards from MLWM, excluding the Sanctuary Zones, as denoted by the hatched area in the diagram hereto.

10. RED ROCK AND CORINDI RIVER



Refuge Zone (see legend)
The whole of the tidal waters of Salt Water Creek and Corindi River including all their creeks, bays and tributaries upstream from the line marked "A" as denoted by the hatched area in the diagram hereto.

Recreation Zone (see legend)
From MHW to 200m seawards from MLWM around the headland between each F.D. Post bearing and all tidal waters of the Corindi River upstream to the line marked "A" known as "Jewfish Point" as denoted by the hatched area in the diagram hereto.

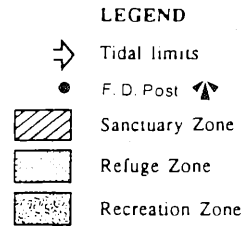
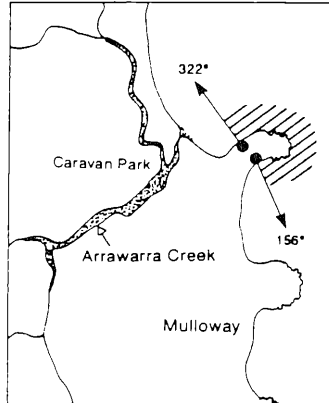
LEGEND

- Tidal limits
- F. D. Post
- Sanctuary Zone
- Refuge Zone
- Recreation Zone



0 500m
Scale

12. ARRAWARRA HEADLAND & CREEK



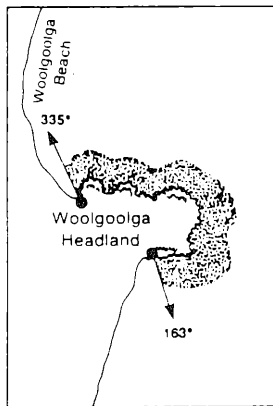
Sanctuary Zone (see legend)

From MHWM to 200m seawards from MLWM around the headland between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

Recreation Zone (see legend)

The whole of tidal waters of Arrawarra Creek including all creeks, bays and tributaries as denoted by the hatched area in the diagram hereto.

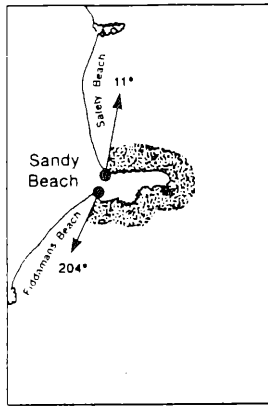
13. WOOLGOOLGA HEADLAND



Recreation Zone (see legend)

From MHWM to 200m seawards from MLWM around the headland between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

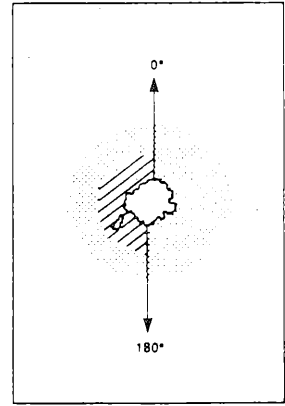
14. BARE BLUFF



Recreation Zone (see legend)

From MHWM to 200m seawards from MLWM around the headland between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

15. SOUTH WEST SOLITARY ISLAND



Sanctuary Zone (see legend)

From MHWM to 200m seawards from MLWM between the northernmost and southernmost extremities on the western side as denoted by the hatched area in the diagram hereto.

Refuge Zone (see legend)

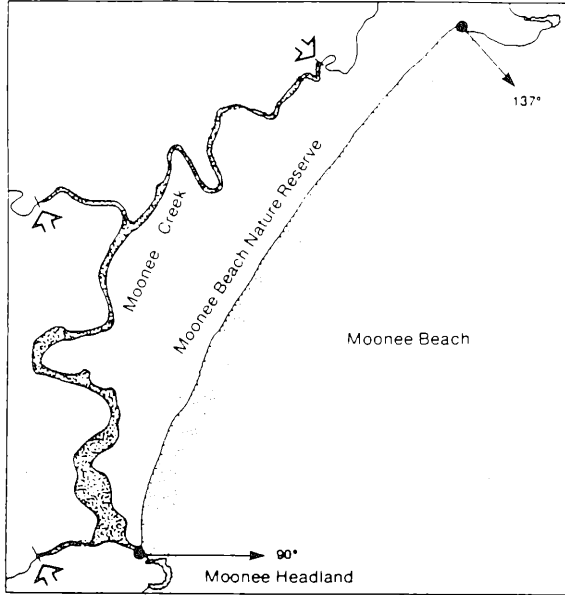
From MHWM to 400m seawards from MLWM, excluding the Sanctuary Zone, as denoted by the hatched area in the diagram hereto.



0 500m

Scale

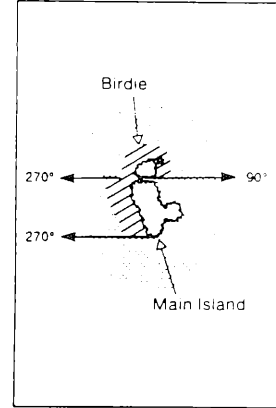
16. MOONEE BEACH & MOONEE CREEK



Refuge Zone (see legend)
From MHW to 200m seawards from MLWM between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

Recreation Zone (see legend)
The whole of the tidal waters of Moonee Creek including all creeks, bays and tributaries as denoted by the hatched area in the diagram hereto.

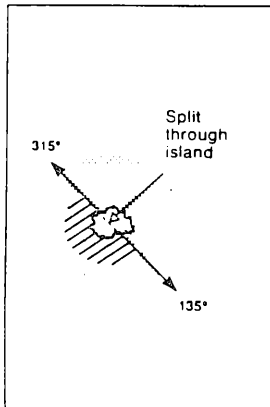
17. SOUTH SOLITARY ISLAND



Sanctuary Zone (see legend)
From MHW to 200m seawards from MLWM on the western side of the main island and from MHW to 100m seawards from MLWM around "Birdie" as denoted by the hatched area in the diagram hereto.

Refuge Zone (see legend)
From MHW to 400m seawards from MLWM excluding the Sanctuary Zone as denoted by the dotted area in the diagram hereto.

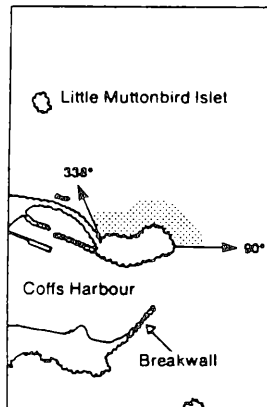
18. SPLIT SOLITARY ISLAND



Sanctuary Zone (see legend)
From MHW to 200m seawards from MLWM on south western side of "split through island" as denoted by the hatched area in the diagram hereto.

Refuge Zone (see legend)
From MHW to 400m seawards from MLWM excluding the Sanctuary Zone as denoted by the dotted area in the diagram hereto.

19. MUTTONBIRD ISLAND



Refuge Zone (see legend)
From MHW to 200m seawards from MLWM around the headland between each F.D. Post bearing as denoted by the hatched area in the diagram hereto.

LEGEND

- Tidal limits
- F. D. Post
- ▨ Sanctuary Zone
- ▤ Refuge Zone
- ▥ Recreation Zone



0 500m
Scale

NOTE

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EXPLANATORY NOTE

The object of this Regulation is to make provision, under the Fisheries and Oyster Farms Act 1935, for the management and protection of the aquatic reserve known as the Solitary Islands Marine Reserve.

Provision is made for the creation of 4 zones, the general use, recreation, refuge and sanctuary zones, within the Reserve and for the regulation of activities within those zones.

Mining and exploration (in connection with mining or prospecting) of the seabed within 1 kilometre, measured horizontally, below mean high water mark of any of the islands or in any areas which are shallower than 20 metres at low tide is totally prohibited in the Reserve. Certain other activities, such as the taking of coral and the conduct of recreational fishing competitions or commercial tourist activity, are prohibited throughout the Reserve without the authorisation of the Director-General of the Department of Agriculture and Fisheries, while other activities are prohibited in specific zones.

The removal of oysters by the lessee of a leased area within the Reserve is not affected by the prohibitions. Further, the Director-General may grant approvals to enable persons to engage in activities which would otherwise be prohibited, such as the carrying out of scientific research in the Reserve.
