



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041

5267



PERTH, FRIDAY, 22 OCTOBER 2010 No. 194 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 4.00 PM

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FISH RESOURCES MANAGEMENT ACT 1994

**SHARK BAY SNAPPER MANAGEMENT
PLAN REVOCATION 2010**

**SHARK BAY LINE FISHING (AMENDMENT
AND REVOCATION OF ORDERS)
ORDER 2010**

**GASCOYNE DEMERSAL SCALEFISH
MANAGEMENT PLAN 2010**

FISH RESOURCES MANAGEMENT ACT 1994**SHARK BAY SNAPPER MANAGEMENT PLAN REVOCATION 2010**

FD 2751/00 [978]

Made by the Minister under section 54.

1. Citation

This instrument is the *Shark Bay Snapper Management Plan Revocation 2010*.

2. Commencement

This order comes into operation on 1 November 2010.

3. Management plan revoked

The *Shark Bay Snapper Management Plan 1994* is revoked.

Dated this 20th day of October 2010.

NORMAN MOORE, Minister for Fisheries.

FISH RESOURCES MANAGEMENT ACT 1994**SHARK BAY LINE FISHING (AMENDMENT AND REVOCATION OF ORDERS) ORDER 2010**

Order No. 2 of 2010

FD 1620/98 [867]

Made by the Minister under section 43.

1. CitationThis order is the *Shark Bay Line Fishing (Amendment and Revocation of Orders) Order 2010*.**2. Commencement**

This order comes into operation on 1 November 2010.

3. Amendments(1) The amendments in this clause are to the *Prohibition on Commercial Fishing (Shark Bay Marine Park) Order 2004*.

(2) In clause 2(2) delete “oyster fishing licence”; “.

(3) In paragraph (1) of item 2 of Schedule 1 delete “*Shark Bay Snapper Management Plan 1994*” and insert—*Gascoyne Demersal Scalefish Management Plan 2010*.**4. Revocations**(1) Notice No. 284 published in the Gazette of 6 November 1987, which was made under the *Fisheries Act 1905* and continued in force under regulation 186 of the *Fish Resources Management Regulations 1995* as if it was made under section 43 of the Act, is revoked.(2) The *Prohibition on Line Fishing From Trawlers (Shark Bay) Order 2000*, published in the Gazette of 25 August 2000, is revoked.(3) The *Prohibition on Commercial Line Fishing (Waters of the Shark Bay Snapper Managed Fishery) Order 2004*, published in the *Government Gazette* of 11 June 2004, is revoked.

Dated this 20th day of October 2010.

NORMAN MOORE, Minister for Fisheries.

FISH RESOURCES MANAGEMENT ACT 1994**GASCOYNE DEMERSAL SCALEFISH MANAGEMENT PLAN 2010**

FD 182/08 [864]

Made by the Minister under section 54.

PART 1—PRELIMINARY**1. Citation**This plan is the *Gascoyne Demersal Scalefish Management Plan 2010*.**2. Commencement**

This plan comes into operation on 1 November 2010.

3. Interpretation

In this plan, unless the contrary intention appears—

approved ALC means an “approved automatic location communicator” as defined in regulation 55A;

approved directions has the same meaning as in regulation 55A;

authorised boat means—

- (a) a licensed fishing boat, the name, licensed fishing boat number and length of which are specified on a licence; or
- (b) a boat specified in a written authority under regulation 132 where that boat is to be used in place of a boat described in paragraph (a);

bait means fish for which proof of purchase can be provided on demand;

Carnarvon Harbour means the wharves and jetties known as the T-Jetty, the Snapper Jetty, Bickley Wharf, and Nor-West Seafoods Wharf at Carnarvon Boat Harbour south of the intersection of West Street and Harbour Road, Carnarvon;

Coral Bay Harbour means the Coral Bay Maritime Facility located at Monck Head, Coral Bay, as described on Department for Planning and Infrastructure Nautical Chart 1108;

current entitlement means the usual units of entitlement conferred by a licence as—

- (a) increased by any entitlement transferred to the licence under section 141 of the Act; or
- (b) decreased by any entitlement transferred from the licence under section 141 of the Act;

demersal scalefish means all fish of the Class Osteichthyes, except—

- (a) mackerel of the genera *Scomberomorus*, *Grammatorcynus* and *Acanthocybium*; and
- (b) pink snapper as described by the scientific classification opposite that common name in Column 2 of Schedule 7 to the regulations;

Denham Harbour means the Denham Town Jetty on Knight Terrace, Denham, as described on Department for Planning and Infrastructure Nautical Chart 661;

dropline means a fishing line, excluding a longline, which when used for fishing—

- (a) is weighted at one end only; and
- (b) is deployed vertically through the water; and
- (c) is not attached to a boat; and
- (d) is buoyed at the surface by a minimum of one buoy or float, each of which—
 - (i) has a minimum diameter of 200 millimetres; and
 - (ii) is attached to the line; and
 - (iii) is marked with the licensed fishing boat number of the authorised boat, in letters each of which are at least 60 millimetres high and 10 millimetres wide;

Fishery means the Gascoyne Demersal Scalefish Managed Fishery identified and declared in clause 5;

handline means a fishing line which when used for fishing has one end in constant contact with an authorised boat, or is attached to a fishing rod or reel, or is held in the hand;

jig means a lure or other device with unbarbed hooks used for taking squid or cuttlefish, and which is attached to a line;

licence means a managed fishery licence authorising a person to fish in the Fishery;

licensed fishing boat has the same meaning as in the regulations;

line means a handline, dropline or troll line;

Mackerel Fishery authorisation means an authorisation granted under Part 6 of the Act that authorises fishing under the relevant management plan in force in respect of commercial fishing for mackerel of the genera *Scomberomorus*, *Grammatorcynus* and *Acanthocybium*;

Marine Aquarium Fish managed fishery licence means a managed fishery licence that authorises fishing under the Marine Aquarium Fish Management Plan 1995;

pink snapper means fish described by the scientific classification opposite that common name in column 2 of Schedule 7 to the regulations and any fillet of demersal scalefish;

plan means the *Gascoyne Demersal Scalefish Management Plan 2010*;

port area means an area defined in Schedule 6;

regulations means the *Fish Resources Management Regulations 1995*;

Shark Bay Beach Seine and Mesh Net managed fishery licence means a managed fishery licence that authorises fishing under the *Shark Bay Beach Seine and Mesh Net Management Plan 1992*;

Shark Bay Prawn managed fishery licence means a managed fishery licence that authorises fishing under the *Shark Bay Prawn Management Plan 1993*;

Shark Bay Scallop managed fishery licence means a managed fishery licence that authorises fishing under the *Shark Bay Scallop Management Plan 1994*;

Shark Bay Snapper managed fishery licence means a managed fishery licence that authorises fishing under the *Shark Bay Snapper Management Plan 1994*;

troll line means a handline that is towed by a boat;

usual entitlement means the units of entitlement conferred by a licence without regard to any entitlement temporarily transferred to or from the licence under section 141 of the Act;

West Coast Demersal Gillnet and Demersal Longline interim managed fishery permit means an interim managed fishery permit that authorises fishing under the *West Coast Demersal Gillnet and Demersal Longline Interim Managed Fishery Management Plan 1997*.

4. Procedure before this plan may be amended or revoked

For the purposes of section 65 of the Act, all the licence holders of the Fishery are the persons to be consulted before this plan is amended or revoked.

PART 2—THE FISHERY

5. Identification and declaration of the Fishery

(1) The fishery to which this plan relates is the fishing for pink snapper and demersal scalefish by any means in the waters described in Schedule 1.

(2) The Fishery is a managed fishery, and may be referred to as the Gascoyne Demersal Scalefish Managed Fishery.

PART 3—LICENCES

Division 1—Criteria to be satisfied before the CEO can grant licences

6. Interpretation in regard to Division 1

In this Division—

annual catch means the combined weight of pink snapper and demersal scalefish that has been determined by the Department, on the basis of the relevant fishing returns for the relevant financial year, and which is recorded in the Department's records as the whole weight of pink snapper and demersal scalefish that was taken in that year;

average annual catch means the average of the annual catches for those three financial years in the pre-benchmark or the post-benchmark period (as the case may be) in which the most pink snapper and demersal scalefish in combination (whole weight) were recorded as having been taken;

Catch and Effort Return form means the form approved by the CEO from time to time for recording information regarding catch taken in the Fishery;

conversion rates means the rates used from time to time by the Department's Director of Fisheries Research to convert the weight of a part of a fish to a whole weight for Departmental recording purposes, being generally those rates specified in Appendix B, Ministerial Policy Guideline No. 14 except where—

- (a) a rate in Appendix B, Ministerial Policy Guideline No.14 superseded an earlier rate, or was superseded by a later rate, in which case that earlier or later rate (as the case may be) applied at the relevant time; or
- (b) a rate in respect of a species of fish that was not specified in Appendix B, Ministerial Policy Guideline 14, was applied at the relevant time;

financial year means the period commencing on 1 July in any year and ending on 30 June in the following year, except for the period 1 July 1996 to 30 June 1998 where the financial years are to be—

- (a) the period commencing on 1 July 1996 and ending on 31 October 1997; and
- (b) the period commencing on 1 November 1997 and ending on 30 June 1998;

fishing block means an area of waters described as a fishing block and having a designated block number, as described in the instructions for use of, or explanatory notes to, the Catch and Effort Return forms issued by the Department and used from time to time for the purpose of submitting a fishing return;

fishing history means the information determined by the Department and recorded in the Department's records on the basis of the fishing returns relating to the use of the boat licensed under the relevant **fishing boat licence**;

fishing return means a return—

- (a) in a form approved by the CEO under the relevant Act and from time to time for recording the catch of fish taken with the use of a fishing boat under a fishing boat licence and submitted under—
 - (i) regulation 64; or
 - (ii) section 18 of the *Fisheries Act 1905*; and
- (b) received by the Department on or before 30 June 2004;

open access line fishing methods means fishing by line—

- (a) by a person fishing commercially from or in connection with the use of—
 - (i) a licensed fishing boat; or
 - (ii) a licensed fishing boat from which any fish taken have been recorded by the Department as having been taken under the fishing boat licence of the boat specified in subparagraph (i),
 in accordance with the laws of the State regulating commercial fishing from time to time; and
- (b) that was not carried out under any limited entry fishery licence, managed fishery authorisation, exemption, or any other administrative or legislative exception to any prohibition that was an exception that applied, or purported to apply, to that person and did not also apply, or purport to apply, to all other persons; and
- (c) that was carried out in fishing blocks between 23° south latitude and 27° south latitude;

post-benchmark period means the period from 1 November 1997 to 30 June 2003;

pre-benchmark period means the period from 1 July 1991 to 31 October 1997;

West Coast Demersal Scalefish interim managed fishery permit means an interim managed fishery permit that authorises fishing under the *West Coast Demersal Scalefish (Interim) Management Plan 2007*;

whole weight in relation to pink snapper or demersal scalefish means the weight of the fish that, in accordance with the relevant conversion rate, has been determined by the Department and recorded in the Department's records as the whole weight of the fish.

7. Certain fish to be regarded as demersal scalefish

For the purposes of this Division—

- (a) mackerel of the genera *Scomberomorus*, *Grammatocynus* and *Acanthocybium* that has not been, and cannot be, taken into consideration in connection with a conferral of entitlement under a Mackerel Fishery authorisation; and
- (b) fish of the species specified in Schedule 2 as species managed by the Commonwealth and taken lawfully under an authorisation issued in accordance with the *Fisheries Act 1905* or the Act,

and which are recorded in the relevant fishing history shall be regarded as demersal scalefish.

8. Certain fish to be regarded as having been taken from the waters of the Fishery

For the purposes of this Division, where demersal scalefish are recorded in the relevant fishing history as having been taken from the waters of fishing block numbers 2609, 2610, 2611, 2612, 26130 or 26131, those fish are to be regarded as having been taken from the waters of the Fishery, except where a person has elected for fish taken from the waters of those fishing block numbers to be taken into account in connection with the grant of a West Coast Demersal Scalefish interim managed fishery permit.

9. Certain fish to be regarded as not having been taken by open access line fishing methods

(1) For the purposes of this Division and subject to subclause (2), where any pink snapper or demersal scalefish are recorded in the relevant fishing history as having been taken from the waters of a fishing block by non-open access line fishing methods, the weight of all the pink snapper and demersal scalefish recorded in the relevant fishing history as having been taken from the waters of that fishing block during the relevant period shall be regarded as not having been taken by open access line fishing methods, except to the extent that it can be determined from the relevant fishing history that pink snapper or demersal scalefish was taken by open access line fishing methods.

(2) Where any pink snapper or demersal scalefish is recorded in any fishing history as having been taken with the use of a licensed fishing boat at a time when that boat was authorised to be used for fishing for pink snapper under a limited entry fishery notice or a management plan for the Shark Bay Snapper fishery, that pink snapper and demersal scalefish shall be taken to have been taken by open access line fishing methods except to the extent that it is recorded in quota disposal records or catch

and disposal records as having been taken under a Shark Bay Snapper limited entry fishery licence or managed fishery licence.

10. Initial criteria for the grant of licences

(1) The initial criteria to be satisfied before the CEO may grant a person a licence to fish in the Fishery are that the person applies for a licence on or before 31 March 2011 and—

- (a) at midday on 31 October 2010 the person was the holder of a Shark Bay Snapper managed fishery licence; or
- (b) both—
 - (i) at midday on 31 October 2010 the person was the holder of a fishing boat licence; and
 - (ii) in respect of both the pre-benchmark and post-benchmark periods the average annual catch (whole weight) of demersal scalefish and pink snapper as determined by the Department and recorded in the Department's records on the basis of fishing **returns** relating to the use of the **boat** licensed under the **fishing boat licence** referred to in subparagraph (i) and any other relevant returns as having been taken with the use of that boat from the waters of the Fishery by open access line fishing methods, is not less than 2,000 kg.

(2) For the purposes of any one application subclause (1) does not apply in respect of more than one licence held by a person.

(3) Subclause (1)(b)(i) does not apply to any fishing boat licence in respect of which the relevant licensed fishing boat number allocated under regulation 118 included any letter after the distinguishing number.

(4) In subclause (1)(b)(ii) "any other relevant returns" is a reference to any fishing returns to which subparagraph (a)(ii) of the definition of "open access line fishing methods" applies in connection with a fishing boat licence to which subparagraph (1)(b)(i) applies.

11. Secondary criteria for the grant of licences

(1) The criteria, alternative to the initial criteria, to be satisfied before the CEO may grant a person a licence to fish in the Fishery are that—

- (a) contemporaneously with the application for the grant of the licence an application is made under section 140 of the Act to transfer units of entitlement to the licence (if granted) from another licence; and
- (b) the application referred to in paragraph (a) is in respect of not less than 100 units; and
- (c) upon consideration of the transfer application referred to in paragraph (a) the CEO would transfer the units to the licence (if it had been granted).

(2) For the purposes of subclause (1) a reference to an application to transfer units of entitlement shall be taken to include an application made in connection with the surrender of a licence pursuant to clause 18.

Division 2—General provisions relating to licences

12. Duration of licences

A licence expires on 31 August in any year following the date from when the licence was granted or renewed.

13. Items that must be specified on a licence

A licence granted in respect of the Fishery must specify—

- (a) the name and business address of the holder of the licence; and
- (b) the authorised boat which may be used for or in connection with fishing in the Fishery under the authority of the licence as the authorised boat; and
- (c) the licence number; and
- (d) the date from which the licence was granted or renewed; and
- (e) the date on which the licence expires; and
- (f) the name of the Fishery to which the licence relates; and
- (g) the current and usual entitlement; and
- (h) any conditions imposed on the licence by the CEO.

14. Ground to refuse to transfer a licence

The CEO may refuse to transfer a licence on the ground that the licence holder has not applied to simultaneously transfer any Shark Bay Prawn managed fishery licence or Shark Bay Scallop managed fishery licence that is also held by the licence holder.

15. Ground for the suspension, cancellation or non-renewal of a licence

The CEO may suspend, cancel or not renew a licence on the ground that the usual entitlement conferred by the licence is less than 100 units.

16. Grounds to refuse to transfer part of an entitlement

The CEO may refuse to transfer any part of an entitlement under a licence on the grounds that—

- (a) if the transfer were given effect the usual entitlement conferred by a licence would be less than 100 units; or
- (b) the value of the entitlement conferred by the licence, as determined in accordance with clause 28(2), that would be conferred by the licence after the transfer, would be less than the total quantity (whole weight) of pink snapper landed from the relevant authorised boat or taken with the use of the relevant authorised boat during the period for which the licence has been granted or renewed; or
- (c) the transfer is not of a whole number of units; or
- (d) any fee has not been paid in respect of the licence from which the units are to be transferred; or
- (e) the licence to which the entitlement would be transferred is not subject to a condition, imposed on the licence by the CEO under section 69 of the Act, restricting the number of days in which fishing may be carried out in the Fishery.

17. Temporary transfer of part of an entitlement

Part of an entitlement under a licence may be temporarily transferred to another licence for a period ending at the time that the licence expires, provided that—

- (a) the value of the entitlement conferred by the licence, as determined in accordance with clause 28(2), that would be conferred by the licence after the transfer, would not be less than the total quantity (whole weight) of pink snapper landed from the relevant authorised boat or taken with the use of the relevant authorised boat during the period for which the licence has been granted or renewed; and
- (b) the transfer is of a whole number of units; and
- (c) the licence to which the entitlement is to be transferred is subject to a condition, imposed on the licence by the CEO under section 69 of the Act, restricting the number of days in which fishing may be carried out in the Fishery.

18. Surrender of licence and reallocation of usual entitlement

(1) Subject to subclauses (2) and (3), the CEO may increase the entitlement conferred by a licence—

- (a) upon the application of the holder of a licence; and
- (b) where another licence has been surrendered under section 144 of the Act; and
- (c) provided that the person who was the holder of the surrendered licence has consented to the application referred to in paragraph (a).

(2) The entitlement of a licence must not be increased by more than the usual entitlement of the surrendered licence.

(3) Subclause (1) applies only once in connection with the surrender of a licence.

PART 4—CAPACITY OF THE FISHERY AND SCHEME OF ENTITLEMENTS**19. Capacity of the Fishery**

The capacity in any year ending on 31 August of the part of the Fishery relating to pink snapper is 275,508 kilograms of pink snapper (whole weight).

20. Scheme of entitlements

(1) The sum of the entitlements to fish for pink snapper that may be conferred by all the licences is equal in value to the capacity of the Fishery as provided for in clause 19.

(2) The entitlement to fish for pink snapper conferred by a licence—

- (a) shall be expressed in terms of units of entitlement; and
- (b) is determined in accordance with clause 28(2).

(3) The extent of the entitlement to fish for pink snapper that nominally arises from a unit, to be known as the unit value, is determined in accordance with Schedule 7 and is limited by reference to a quantity of pink snapper measured in kilograms (whole weight).

21. Conferral of entitlement

Where a licence is granted in accordance with clause 10(1)(a) the licence shall, at the time it is granted, confer usual units of entitlement equal in number to the number of usual units of entitlement conferred by the relevant Shark Bay Snapper managed fishery licence as at midday on 31 October 2010.

22. Reduction of entitlement conferred by a licence

Where—

- (a) a person is convicted of an offence against section 74 of the Act relating to exceeding the entitlement of a Shark Bay Snapper managed fishery licence; and
- (b) on the basis of that Shark Bay Snapper managed fishery licence being held a licence was granted in accordance with clause 10(1)(a); and

(c) the CEO is satisfied that in respect of that conviction section 76 of the Act would have applied in respect of the Shark Bay Snapper managed fishery licence if it had remained in force, then the entitlement of the licence granted in accordance with clause 10(1)(a) is reduced by the same number of units that the entitlement of the Shark Bay Snapper managed fishery licence would have been reduced if it had remained in force.

PART 5—AUTOMATIC LOCATION COMMUNICATORS AND NOMINATIONS

23. Requirement for approved ALC to be installed in an authorised boat

- (1) A person must not use an authorised boat in the Fishery unless an approved ALC has been installed in that boat in accordance with the approved directions.
- (2) A person must not use an authorised boat in the Fishery unless—
 - (a) the approved ALC installed in that boat has been tested, and is being used, in accordance with the approved directions; and
 - (b) the person has and maintains at all times on board the boat a legible copy of the approved directions.
- (3) It is a condition of a licence that the authorised boat must not be used in the Fishery unless an approved ALC is fitted to the boat and the ALC is being used in the manner specified in the approved directions.
- (4) It is a condition of a licence that regulations 55C and 55D are complied with at all times.

24. Nomination of fishing

- (1) The master of an authorised boat must not—
 - (a) fish or allow a person to fish in the Fishery from that boat; or
 - (b) allow any pink snapper or demersal scalefish, other than bait, to be on, or landed from, that boat in the waters of the Fishery,unless a nomination to fish has been given in respect of that boat.
- (2) A nomination to fish must—
 - (a) be made—
 - (i) not more than 2 hours prior to the boat entering the waters of the Fishery; or
 - (ii) where the boat is in the waters of the Fishery, from a port area and not more than 2 hours prior to the boat leaving on a fishing trip from the port area; and
 - (b) be made in respect of each fishing trip undertaken under the authority of the relevant licence.
- (3) A nomination under subclause (1) must be made by the approved ALC computer in accordance with the approved directions and is taken to have been given only when a confirmation message that the nomination was effective is received by the master through the ALC computer.
- (4) Despite subclause (3), where the messaging facility of the approved ALC computer is not operating and the master has given a nomination by message to the Vessel Monitoring System Messaging Service in accordance with the approved directions, then a nomination will be taken to have been given under subclause (1).
- (5) Subclause (1) does not apply in respect of fishing being conducted solely under an interim managed fishery permit or a managed fishery licence in force in respect of another interim managed or managed fishery.

25. Notification prior to authorised boat leaving the Fishery

- (1) The master of an authorised boat must not cause or permit that boat to depart from the waters of the fishery unless the master has given notification to the CEO, in a manner and form approved by the CEO, of that departure.
- (2) The notification must—
 - (a) be given from the Carnarvon, Denham or Coral Bay port area; and
 - (b) be given prior to the time of commencing the departure trip; and
 - (c) specify the time of departure and the port of destination.
- (3) Subclause (1) does not apply in respect of a fishing trip commencing from the Coral Bay port area where a nomination to fish has been given under clause 24.

PART 6—GENERAL REGULATION OF FISHING

26. Prohibition on fishing in the Fishery

Subject to clause 35, a person must not fish in the Fishery other than—

- (a) in accordance with this plan; and
- (b) under the authority of a licence.

27. Authority of licence of no effect where entitlement is less than 100 units

- (1) The authority conferred by a licence is of no effect at any time when either the usual or current entitlement conferred by the licence is less than 100 units.

(2) Subclause (1) does not apply in regard to a licence where the authorised boat is a trawler and is also the boat specified on a Shark Bay Prawn managed fishery licence or a Shark Bay Scallop managed fishery licence.

28. Prohibition on fishing in excess of entitlement

(1) The holder of a licence or a person acting on that person's behalf must not—

- (a) fish for pink snapper or demersal scalefish in the waters of the Fishery from; or
- (b) fillet any pink snapper or demersal scalefish in the waters of the Fishery on; or
- (c) have on board or transport any pink snapper or demersal scalefish on; or
- (d) land any pink snapper or demersal scalefish from,
the relevant authorised boat, unless the whole weight, as determined in accordance with clause 39, of all pink snapper—
 - (i) landed from the boat; or
 - (ii) taken with the use of the boat,

during the period for which the licence has been granted or renewed is less than the value of the entitlement conferred by the licence.

(2) In subclause (1) the value of the entitlement conferred by a licence—

- (a) that was granted under clause 10(1)(a) and expires on 31 August 2011 is the value of the current entitlement of the licence, calculated by reference to the unit value, minus any accrued pink snapper catch; and
- (b) in any case to which paragraph (a) does not apply, is the value of the current entitlement of the licence, calculated by reference to the unit value.

(3) In subclause (2)(a) “accrued pink snapper catch” is the quantity (whole weight) of pink snapper taken under the relevant Shark Bay Snapper managed fishery licence during the period commencing on 1 September 2010 and ending on 31 October 2010, as determined in accordance with the *Shark Bay Snapper Management Plan 1994*.

(4) In subclause (3) “the relevant Shark Bay Snapper managed fishery licence” is the Shark Bay Snapper managed fishery licence by virtue of which the relevant licence was granted under clause 10(1)(a).

29. Prohibitions in regard to gear

(1) A person fishing in the Fishery under the authority of a licence must not fish by any means other than by line.

(2) The master of an authorised boat must ensure that not more than 10 lines are used for fishing from that boat at any one time.

(3) Subject to clause 35, the master of a fishing boat that is not an authorised boat and which is being used to fish for a commercial purpose in the waters of the Fishery must ensure that there are no hooks on board that boat.

30. Prohibitions and requirements in regard to the use of boats

(1) A person fishing under the authority of a licence must not use a boat to fish in the Fishery unless the boat is an authorised boat.

(2) The master of an authorised boat must not permit any pink snapper or demersal scalefish to be transferred—

- (a) to another boat from; or
- (b) from another boat to,

the boat, while the boat is in the waters of the Fishery.

(3) The master of an authorised boat which has been used to fish in the Fishery must not allow that boat to leave the waters of the Fishery unless all fish taken with the use of that boat have first been unloaded, and no fish, except bait, remain on board.

(4) Subclause (3) does not apply in respect of a fishing trip being carried out from Coral Bay Harbour under the authority of the relevant licence in accordance with a nomination made under clause 24 where that part of the fishing trip that is outside the waters of the Fishery is the shortest and most practicable route north of 23° 07.30' south latitude necessary for passage to or from Coral Bay Harbour through Cardabia Passage as described on Department for Planning and Infrastructure Nautical Chart 1108.

(5) Subject to clause 35, the master of an authorised boat, when that boat is being used in the Fishery, must not allow any pink snapper or demersal scalefish to be on board that boat unless that pink snapper or demersal scalefish is bait or fish taken under the authority of the relevant licence.

31. Prohibition on storing, transporting or landing pink snapper or demersal scalefish except in regard to fish in specified condition

(1) A person authorised to fish in the Fishery under the authority of a licence must not store, transport or land any pink snapper or demersal scalefish, except for bait, unless that pink snapper or demersal scalefish is—

- (a) whole fish; or
- (b) fillets of fish; or

- (c) fish which has been gilled; or
- (d) fish which has been gutted; or
- (e) fish which has been chilled;
- (f) any combination of fish to which one or more of paragraphs (a) to (e) apply.

(2) For the purposes of this plan, all fillets of fish stored, transported or landed are taken to be pink snapper.

32. Prohibition on having pink snapper or demersal scalefish on board

Subject to clause 35, the master of a fishing boat that is not an authorised boat and which is being used to fish in the waters of the Fishery must ensure that no pink snapper or demersal scalefish is stored or transported on board that boat.

33. Prohibition on selling, purchasing or dealing in pink snapper or demersal scalefish

Subject to clause 35, a person must not—

- (a) sell, purchase, or deal in, or attempt to sell, purchase, or deal in, any pink snapper or demersal scalefish taken from the Fishery in contravention of this plan; or
- (b) sell, purchase, or deal in, or attempt to sell, purchase, or deal in, any pink snapper or demersal scalefish taken from the Fishery, unless the pink snapper or demersal scalefish were taken by a person who holds a commercial fishing licence, and the fish were taken under the authority of a licence issued in accordance with this plan.

34. Prohibition on fishing in specified waters

Subject to clause 35, a person must not fish for pink snapper or demersal scalefish in—

- (a) the waters described in Schedule 5(a); or
- (b) the waters described in Schedule 5(b); or
- (c) the Carnarvon, Denham or Coral Bay port areas.

35. Exceptions to certain prohibitions

(1) Clause 26 does not apply to—

- (a) fishing by a person under the authority of an authorisation specified in Schedule 3; or
- (b) fishing by a person under the authority of a Mackerel Fishery authorisation; or
- (c) recreational fishing.

(2) Clause 29(3) does not apply to fishing—

- (a) by a person under the authority of a Mackerel Fishery authorisation; or
- (b) for squid or cuttlefish by means of a jig.

(3) Clauses 30(5) and 32 do not apply in regard to—

- (a) pink snapper or demersal scalefish taken, and in the possession of a person fishing, under the authority of an authorisation specified in Schedule 3; or
- (b) a licensed fishing boat in respect of which a fishing tour operator's licence or aquatic eco-tourism operator's licence is held and which is being used solely for the conduct of a fishing tour or an aquatic eco-tour; or
- (c) bait.

(4) Clause 33 does not apply in regard to persons selling, purchasing, or dealing, or attempting to sell, purchase or deal in pink snapper or demersal scalefish taken under the authority of an authorisation specified in Schedule 3.

(5) Clause 34 does not apply—

- (a) to fishing by a person under the authority of a Marine Aquarium Fish managed fishery licence; or
- (b) in regard to recreational fishing.

(6) Clause 34(b) does not apply to fishing by a person under the authority of a Shark Bay Beach Seine and Mesh Net managed fishery licence.

36. Defence to section 74 of the Act in respect of contravening clause 28

It is a defence in proceedings for an offence against section 74 of the Act in respect of contravening clause 28 for the person charged to prove that—

- (a) either notice of the fishing in excess of the value of the entitlement was provided to the CEO, in a manner and in a form specified in writing by the CEO, before the pink snapper were moved from the place of landing in accordance with clause 37, or within 7 days of the landing of the pink snapper the Department notified the person of the fishing in excess of the entitlement; and
- (b) the amount of pink snapper by which the value of the entitlement was exceeded is not more than 100 kilograms whole weight; and
- (c) the licence holder, not more than 14 days after the landing of the pink snapper or being notified by the Department (as the case may be), paid to the Fisheries Research and Development Fund an amount of money equal to the product of the number of kilograms in whole weight by which the value of the entitlement was exceeded and the prescribed value (per unit of weight) of the pink snapper, as specified in Schedule 9 to the regulations.

PART 7—REQUIREMENTS IN REGARD TO LANDING AND RECORDS**37. Notification of landing pink snapper and demersal scalefish and determination of weight**

(1) In this clause—

place of landing means a jetty, wharf or other facility to which a boat can be moored and onto which fish can be unloaded.

(2) The master of an authorised boat that has been used for fishing under the relevant licence must give a notification to the CEO from that boat—

(a) not more than 60 minutes; and

(b) not less than 30 minutes,

prior to causing or permitting the boat to enter the waters of the Carnarvon, Coral Bay, or Denham port areas.

(3) A person must not transmit any information in accordance with subclause (2) that the person knows to be false or misleading.

(4) A notification made in accordance with subclause (2) has effect only when it is given in the manner and form specified in writing by the Chief Executive Officer.

(5) A person must not remove any pink snapper from the place of landing of that fish—

(a) unless subclause (2) has been complied with; and

(b) without the consent of the master; and

(c) unless the fish are in the same condition as when the notice was given under subclause (2).

(6) Where the CEO issues a consignment number in respect of a notice given under subclause (2) the master must make and keep a record of that consignment number.

(7) The master must ensure that any pink snapper consigned from the place of landing has securely attached to it a completed consignment note in a form approved by the Chief Executive Officer.

(8) For the purposes of subclause (7), each occasion on which pink snapper are transported from the place of landing shall constitute a consignment, and a separate consignment note shall be used in respect of each such consignment.

(9) The master must, within 240 minutes of landing pink snapper, accurately determine the whole weight of the pink snapper.

(10) For the purposes of subclause (9) the master must use a means of determining the weight of the pink snapper which the master has, immediately before operating, determined to be in proper operating condition.

(11) The master must not process or remove from the place of landing, or permit any person to process or remove from the place of landing, any pink snapper unless subclause (9) and clause 38(2) have been complied with.

38. Catch and Disposal Records of pink snapper landed in the Fishery

(1) In this clause—

Catch and Disposal Record means the form approved by the CEO from time to time for recording information regarding the consignment of pink snapper taken in the Fishery.

(2) The master of an authorised boat from which any pink snapper have been landed in the Fishery must—

(a) within 240 minutes of landing the pink snapper sign and specify in triplicate in a Catch and Disposal Record form accurate details of—

(i) the place, time and date of the landing of the pink snapper; and

(ii) the name, licence number and business address of any person to whom any pink snapper have been or are to be consigned (as the case requires); and

(iii) the name of any person retaining any pink snapper which is not being consigned, and the place to which the pink snapper are to be taken (as the case requires); and

(iv) the name of the employer of any person who is to transport the pink snapper; and

(v) the number of containers in which the pink snapper are consigned; and

(vi) the determination of the whole weight of pink snapper, as determined in accordance with clause 39, and whether or not the weight is of whole, gutted, gilled, or gutted and gilled, fish; and

(vii) the name of the master of the authorised boat, and details of the licence under the authority of which the pink snapper were taken; and

(viii) the total amount of pink snapper (whole weight) taken under the authority of the licence during the period for which it has been granted or renewed, calculated in accordance with clause 39; and

(b) not depart from the place where the pink snapper was landed, until the matters specified in paragraph (a) have been complied with.

(3) A person to whom subclause (2) applies must—

(a) retain and keep in a safe and secure place the triplicate copies of the completed consignment note referred to in clause 37(7) and the Catch and Disposal Record form, and produce copies to a Fisheries Officer on demand; and

- (b) deliver or cause to be delivered the original copy of the completed Catch and Disposal Record form, together with the duplicate copy of the completed consignment note referred to in clause 37(7), to the office of the Department at Carnarvon or Denham—
 - (i) within 168 hours of landing any pink snapper at Coral Bay Harbour; or
 - (ii) within 72 hours of landing any pink snapper at Denham Harbour or Carnarvon Harbour,

as the case requires.

(4) A person must not make an entry in accordance with subclause (2) that the person knows to be false or misleading.

39. Whole weight conversion

For the purposes of this plan other than Division 1 of Part 3, where a quantity of pink snapper is expressed in terms of a whole weight, the weight shall be taken to be—

- (a) where the fish is whole when weighed, that weight in kilograms; or
- (b) where the fish is not whole when weighed, that weight in kilograms multiplied by the relevant conversion factor specified in Schedule 4.

40. Prohibitions in regard to landing pink snapper or demersal scalefish

(1) The master of an authorised boat must not land any pink snapper or demersal scalefish, or allow any pink snapper or demersal scalefish to be landed, at any place other than Carnarvon Harbour, Coral Bay Harbour, or Denham Harbour.

(2) The master of a licensed fishing boat that is not an authorised boat must not land from, or permit to be landed from, the boat any pink snapper or demersal scalefish, whether taken in the Fishery or otherwise, at any time when the boat is in the waters of the Fishery.

(3) Subclause (2) does not apply in regard to—

- (a) pink snapper or demersal scalefish taken under, and in the possession of a person fishing under, the authority of an authorisation specified in Schedule 3; or
- (b) the master of a licensed fishing boat being used solely for the purposes of a fishing tour under the authority of a fishing tour operator's licence or a restricted fishing tour operator's licence.

PART 8—MISCELLANEOUS

41. Closure of the Fishery or an area within the Fishery

(1) The CEO may, by notice published in the Gazette, prohibit any fishing activity in the whole or any part of the Fishery for the period specified in the notice if the CEO is satisfied that the prohibition is required in the better interests of the Fishery.

(2) In determining the better interests of the Fishery the CEO must take into account advice received from the Department's Director of Fisheries Research, and any other relevant advice, in relation to—

- (a) the long-term sustainability of the Fishery; and
- (b) the ecological and environmental impacts of the Fishery.

(3) A notice made in accordance with subclause (1)—

- (a) may only be made after consultation with the licence holders; and
- (b) may apply at all times or for a specified period; and
- (c) revokes any previous notice made under that subclause; and
- (d) may be amended or revoked by the CEO by notice published in the Gazette.

(4) A person must not fish in the Fishery or any part of the Fishery at any time when fishing in the Fishery or that part of the Fishery is prohibited by a notice made under subclause (1).

42. Offences

A person who contravenes a provision of—

- (a) clauses 23, 24, 26, 28, 29, 30, 31, 32, 33, 34, 37, 38, 40 and 41; or
- (b) clause 25,

commits an offence, and for the purpose of section 75 of the Act the offences specified in paragraph (a) are major provisions.

Schedule 1—Description of the Fishery

All Western Australian waters bounded by a line commencing at the intersection of the high water mark on the coastline of Western Australia at its westernmost extremity and 23° 07.30' south latitude; thence extending west along the geodesic to the outer boundary of the Australian fishing zone; thence following the outer boundary of the Australian fishing zone generally south to its intersection with 26° 30.00' south latitude; thence extending east along the geodesic to the westernmost intersection with the high water mark on the coastline of Western Australia; thence following the high water mark on the coastline of mainland Western Australia to the commencement point.

**Schedule 2—Species managed by the Commonwealth
that may be taken under an authorisation**

<u>Common name</u>	<u>Scientific name</u>
Blue Mackerel	<i>Scomber australasicus</i>
Greenback, or Jack, Mackerel	<i>Trachurus declivis</i>
Peruvian Jack Mackerel	<i>Trachurus murphi</i>
Yellowtail Jack Mackerel	<i>Trachurus novaezelandiae</i>
Bigeye Tuna	<i>Thunnus obesus</i>
Yellowfin Tuna	<i>Thunnus albacares</i>
Albacore Tuna	<i>Thunnus alelunga</i>
Longtail Tuna	<i>Thunnus tonggol</i>
Skipjack Tuna	<i>Katsuwonus pelamis</i>
Pomfrets, Fanfish	Family Bramidae
Redbait	<i>Emmelichthys nitidus</i>

Schedule 3—Authorisations to which certain exceptions to prohibitions apply

- (a) Marine Aquarium Fish managed fishery licence
- (b) Shark Bay Beach Seine and Mesh Net managed fishery licence, but only with respect to the waters described in Schedule 5(b)
- (c) West Coast Demersal Gillnet and Demersal Longline interim managed fishery permit

Schedule 4—Whole weight conversion factors

- (a) For pink snapper that is gilled, gutted or gilled and gutted—1.2
- (b) For pink snapper that is not whole, gilled, gutted, or gilled and gutted—3.0

Schedule 5—Closed areas

- (a) The area bounded by a line commencing at Cape Ronsard on Bernier Island at the intersection of the high water mark and 113° 09.60' east longitude; thence northerly along the geodesic to the intersection of 24° 44.90' south latitude and 113° 09.70' east longitude (Koks Island); thence south easterly along the geodesic to the intersection of 24° 45.30' south latitude and 113° 10.50' east longitude; thence south by east along the geodesic to the intersection of 24° 49' south latitude and 113° 11' east longitude; thence south by west along the geodesic to the intersection of 24° 52.75' south latitude and 113° 10.25' east longitude; thence south along the meridian to the intersection of 24° 56.80' south latitude and 113° 10.25' east longitude; thence south west by south along the geodesic to the intersection of 24° 58.50' south latitude and 113° 09' east longitude; thence south east by south along the geodesic to the intersection of 25° 11' south latitude and 113° 18' east longitude; thence south along the meridian to the intersection of 25° 13' south latitude and 113° 18' east longitude, thence west by north along the geodesic to the intersection of the high water mark on the eastern side of Dorre Island and 25° 10.75' south latitude; thence generally northerly along the high water mark on the eastern side of Dorre Island to the intersection of the high water mark and 113° 07.10' east longitude (Cape Boullanger), thence northerly along the geodesic to the intersection of the high water mark at Cape Couture on Bernier Island and 113° 07.20' east longitude; thence generally northerly along the high water mark on the eastern side of Bernier Island to the commencement point.
- (b) The waters, being generally of the Shark Bay Beach Seine and Mesh Net Managed Fishery, of Shark Bay south of a line commencing at the intersection of 25° 28.828' south latitude and the high water mark at Cape Inscription on Dirk Hartog Island (a point closest to 112° 58.286' east longitude); thence continuing east along the parallel to its intersection with the high water mark on the mainland of Western Australia at Long Point; and all the waters of Shark Bay east of a line commencing at the intersection of 26° 07.427' south latitude and the high water mark at Surf Point on Dirk Hartog Island (a point closest to 113° 10.882' east longitude); thence continuing south west along the geodesic to the intersection of 26° 08.584' south latitude the high water mark on the mainland at Steep Point (a point closes to 113° 09.600' longitude); but excluding the waters of Shark Bay south of a line commencing at the intersection of 25° 58.924' south latitude and the high water mark on the mainland at Kopke Point (a point closes to 114° 11.756' east longitude); thence extending west along the parallel to its intersection with the high water mark on the mainland at Petit Point on Peron Peninsula (a point closest to 113° 54.441' east longitude).

Schedule 6—Port areas

- (a) Denham
All the waters of the Fishery within three nautical miles of the intersection of 25° 55.71' south latitude and 113° 31.99' east longitude.
- (b) Carnarvon
All the waters of the Fishery within three nautical miles of the intersection of 24° 53.934' south latitude and 113° 39.071' east longitude.

(c) Coral Bay

All the waters of the Fishery within three nautical miles of the intersection of 23° 09.288' south latitude and 113° 45.975' east longitude.

Schedule 7—Calculation of unit value

The nominal value of a unit of entitlement is determined by the formula—

$$\frac{C}{5102} = U$$

where—

- (a) C is the capacity of the part of the Fishery relating to pink snapper at the relevant time; and
- (b) 5102 is the total number of units previously conferred by all Shark Bay Snapper managed fishery licences and which can be conferred by licences in accordance with clause 20; and
- (c) U is the unit value.

Dated this 20th day of October 2010.

NORMAN MOORE, Minister for Fisheries.
