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FISH RESOURCES MANAGEMENT ACT 1994

**KIMBERLEY GILLNET AND BARRAMUNDI FISHERY
MANAGEMENT PLAN AMENDMENT 2012**

FD 86/02 [1085]

Made by the Minister under section 54.

1. Citation

This instrument is the *Kimberley Gillnet and Barramundi Fishery Management Plan Amendment 2012*.

2. Management plan amended

The amendments in this instrument are to the *Kimberley Gillnet and Barramundi Fishery Management Plan 1989*.

3. Clause 3 amended

- (a) Delete the definition of “ licence “.
- (b) Insert in the correct alphabetical position—
 - “authorised boat” means a licensed fishing boat, the name, licensed fishing boat number and length of which are specified on a licence;
 - “associated boat” means a licensed fishing boat—
 - (a) used to fish exclusively in conjunction with an authorised boat; and
 - (b) specified on a licence.
 - “bait net” means a net that—
 - (a) does not have a pocket or bunt; and
 - (b) has a hauling rope of not more than 20 metres in length, and which when used—
 - (c) is not stationary in the water; and
 - (d) is not further than 10 metres from the operator at all times that it is in the water;
 - “blue threadfin” means the species of fish *Eleutheronema tetradactylum*;
 - “king threadfin” means the species of fish *Polydactylus macrochir*;
 - “licence” means a managed fishery licence authorising a person to operate in the Fishery;
 - “mesh size” means the width and length of the mesh of a net as determined in accordance with regulation 64D;
 - “regulation” means the *Fish Resources Management Regulations 1995*;

4. Clause 4 amended

In clause 4 delete “ the Schedule “ and insert—
Schedule 1

5. Clause 5 replaced

Delete clause 5 and insert—

Prohibitions in regard to fishing in the Fishery

- 5. (1) Subject to subclause (2), a person must not fish in the Fishery other than—
 - (a) in accordance with this plan; and
 - (b) under the authority of a licence.
- (2) This plan does not apply to a person fishing for a recreational purpose in accordance with the Act.

(3) A person must not fish in the Fishery under the authority of more than one licence at any one time.

(4) A person must not—

- (a) fish in the Fishery; or
- (b) set or haul a net in the Fishery,

other than by the use of—

- (i) an authorised boat; or
- (ii) no more than one associated boat,

specified on a licence.

6. Clause 7 replaced

Delete clause 7 and insert—

Criteria to determine fishing units which may operate in the Fishery

7. (1) The following criteria shall be applied to determine the fishing units, or a fishing unit that it has replaced, which may operate in the Fishery—

- (a) the fishing unit shall have been used in the taking of barramundi during the three years prior to 30 April 1985 and shall have continued to operate in the Fishery since 30 April 1985; and
- (b) during the three years referred to in paragraph (a) a minimum catch of—
 - (i) 1 000 kilograms of whole barramundi; or
 - (ii) 500 kilograms of filleted barramundi;

shall have been taken.

(2) An application made in accordance with clause 7(1) must be received by the Department on or before 6 July 2012.

7. Clause 7A inserted

After clause 7 insert—

Criteria for the grant of a licence

7A. Further to clause 7, the CEO may grant a licence where—

- (a) on 30 June 2011 the applicant held Kimberley Gillnet and Barramundi Fishery managed fishery licence number 2142 granted pursuant to clause 7(1); and
- (b) the applicant establishes to the satisfaction of the CEO that an application for the renewal of the licence referred to in paragraph (a) was not received due to inadvertence on behalf of the holder of that licence; and
- (c) the application is received on or before 30 June 2012.

8. Clause 9 replaced

Delete clause 9 and insert—

Matters to be specified on a licence

9. A licence granted or renewed in respect of the Fishery must specify—

- (a) the name, licensed fishing boat number, and length of the licensed fishing boat to be used as the authorised boat for or in connection with fishing in the Fishery under the authority of that licence;
- (b) the name, licensed fishing boat number, and length of any associated boat;
- (c) the licence number;
- (d) the date of issue of the licence;
- (e) the period for which the licence is valid; and
- (f) any conditions imposed on the licence.

9. Clause 10 replaced

Delete clause 10 and insert—

Closure of the Fishery

10. A person operating from an authorised boat or associated boat must not—

- (a) have on board, or use, a net other than a bait net; or
- (b) take barramundi by any means—
 - (i) during the period commencing on 1 November in any year and ending on 31 January in the next following year, in the waters of the Fishery east of 123° 08.23' east longitude (Cunningham Point); or
 - (ii) during the period commencing on 1 December in any year and ending on 31 January in the next following year in the waters of the Fishery west of 123° 08.23' east longitude (Cunningham Point); or
 - (iii) during any other period specified in writing by the Chief Executive Officer.

10. Clause 10B amended

(a) Delete paragraph (e) and insert—

(e) in the waters of the Fishery bounded by a line commencing at the intersection of 18° 10.013' south latitude and 122° 19.121' east longitude; then extending due south along the meridian to the intersection with the high water mark; then extending in a generally south-westerly direction, including all creeks and tributaries, to the intersection with 122° 18.733' east longitude and the high water mark; then extending due north along the meridian to the intersection of 18° 10.250' south latitude and 122° 18.733' east longitude; then in a generally north easterly line to the commencement point. (Thangoo Creek);

(b) Delete paragraph (g) and insert—

(g) in the Fitzroy River and all its creeks and tributaries south of 17° 27' south latitude, with the exception of the Logue River;

(c) After paragraph (h) insert—

(i) all waters of Whistle Creek and Admiral Bay east of a line extending from the high water mark at Tryon Point to the high water mark at Cape Duhamel.

11. Clause 11 replaced

Delete clause 11 and insert—

Use of boats to take fish

11. (1) A person must not fish in the Fishery except by the use of—

- (a) an authorised boat; or
- (b) an associated boat.

(2) A person must not use an authorised boat and an associated boat in the Fishery simultaneously to take fish.

12. Clause 13 replaced

Delete clause 13 and insert—

Gear specifications

13. A person fishing in the Fishery under the authority of a licence must not fish by any means other than—

- (a) by net or nets having a total length not exceeding 500 metres; or
- (b) by net with meshes—
 - (i) not less than 165 millimetres nor more than 177.8 millimetres when used to take fish in the waters of the Fishery east of 123° 08.23' east longitude (Cunningham Point);
 - (ii) not less than 112 millimetres nor more than 150 millimetres when used to take fish in waters of the Fishery west of 123° 08.23' east longitude (Cunningham Point);
 - (iii) of a line size of not more than 70 kilograms breaking strain; or
- (c) in respect of fish other than barramundi, blue threadfin, or king threadfin, by bait net having—
 - (i) a total length not exceeding 100 metres; and
 - (ii) meshes not less than 50 millimetres; and not greater than 100 millimetres.

13. Clause 16 replaced

Delete clause 16 and insert—

Gear limitations and stowage

16. (1) A person must not have on board—

- (a) an authorised boat; or
- (b) an associated boat, or
- (c) a combination of both authorised and associated boats—
 - (i) more than 700 metres of net as described in clause 13(b); or
 - (ii) more than 100 metres of net as described in clause 13(c).

(2) A person must securely stow on board an authorised boat or associated boat any net that is not being used to fish.

(3) A person using a net in the Fishery must ensure that all nets have an end float measuring not less than—

- (a) 150 millimetres in diameter, in respect of circular floats; and
- (b) 150 millimetres in length, in respect of elliptical floats,

and which are clearly marked with the licensed fishing boat number of the authorised boat.

14. Clause 18 replaced

Delete clause 18 and insert—

Payment by instalments

18. (1) For the purposes of regulation 137(2) of the regulations, the fee for the renewal of a licence may be paid by instalments as specified in Schedule 2 if—

- (a) an election to pay by instalments is made by the holder of a licence in accordance with subclause (2); and
- (b) there is no other fee, charge or levy in respect of the licence which has not been paid at the time the election is received at the head office of the Department.

(2) An election for the purposes of subclause (1) must be—

- (a) made in writing;
- (b) received at the head office of the Department on or before 31 October of the year for which the licence is to be renewed; and
- (c) accompanied by the first instalment plus the surcharge.

(3) For the purposes of regulation 137(3) of the regulations, the surcharge shall be 3.13% of the total fee.

(4) The holder of a licence, or a person acting on that person's behalf, must not fish in the Fishery at any time when any fee or surcharge payable in respect of the licence is outstanding.

15. Clause 22 inserted

After clause 21 insert—

Offences

22. A person who contravenes clause 5, 6, 10, 10B, 11, 13, or 16 commits an offence.

16. Schedule replaced

Delete the Schedule and insert—

Schedule 1**Description of the Fishery**

[clause 4]

All Western Australian waters north of 19° 00.000' south latitude and west of 129° 00.000' east longitude and within three nautical miles of the high water mark of the mainland of Western Australia, and the waters of King Sound south of 16° 21.47' south latitude.

Schedule 2**Payment by instalments**

[clause 18]

(1) The first instalment is 25% of the total fee and is due for payment on or before 31 October of the year for which the licence is to be renewed.

(2) The second instalment is 25% of the total fee and is due for payment on or before 1 February immediately following the period specified in paragraph (1).

(3) The third instalment is the total fee less the instalments provided for in paragraphs (1) and (2) and is due for payment on or before 1 May immediately following the period specified in paragraph (1).

17. Clauses repealed

Delete clauses 8, 8A, 10A, 12, 14, 15, 17 and 19.

Dated this 12th day of June 2012.

NORMAN MOORE, Minister for Fisheries.
