DRAFT MANAGEMENT PLAN FOR THE GASCOYNE DEMERSAL SCALEFISH MANAGED FISHERY

FISHERIES MANAGEMENT PAPER NO. 246

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Draft Management Plan for the Gascoyne Demersal Scalefish Managed Fishery

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CONTENTS

1.0	OPPORTUNITY TO COMMENT	1
2.0	DRAFT GASCOYNE DEMERSAL SCALEFISH MANAGED FISHERY	3
3.0	GAZETTAL	23

1.0 OPPORTUNITY TO COMMENT

INTENTION TO DETERMINE A MANAGEMENT PLAN FOR THE GASCOYNE DEMERSAL SCALEFISH MANAGED FISHERY : DRAFT PLAN OPEN FOR PUBLIC COMMENT

As part of the *Outcomes of the Wetline Review* released in 2007 (Fisheries Management Paper 224) the then Minister for Fisheries approved the drafting of the *Gascoyne Demersal Scalefish Fishery Management Plan* (the Plan). The Hon Norman Moore MLC, Minister for Fisheries re-approved those decisions in 2009. The draft Plan will supersede the *Shark Bay Snapper Management Plan 1994*.

The Department intends to introduce the first phase of the Plan by 1 September 2010, at which time the *Shark Bay Snapper Management Plan 1994* would be revoked and replaced by the new Plan. The (non pink snapper) demersal scalefish effort entitlement component of the Plan would come into effect on 1 September 2011. This is the same staged approach as that taken for the West Coast Demersal Scalefish (Interim) Managed Fishery.

In accordance with section 64(2) of the *Fish Resources Management Act 1994*, the Minister for Fisheries has published a Notice in the Government Gazette on Monday 17 May 2010 stating that he intends to determine the plan and invites interested persons to comment on the draft Plan. The Department will also give notice of the public comment period in the *West Australian*, *Northern Guardian* and *Geraldton Guardian* newspapers.

If you wish to comment on the draft Plan you are invited to make representations in writing to the Minister for Fisheries by 4.30 pm, 14 June 2010. Comments are also invited regarding the revocation of the existing *Shark Bay Snapper Managed Fishery Management Plan*.

Please note that the Notice in the Government Gazette indicated a closure date for submissions of 7 June 2010. However, in order to allow for a full 28 day period of public consultation, representations will be accepted until 4.30 pm, 14 June 2010.

Representations in connection with the draft Plan may be forwarded to:

Minister for Fisheries c/- Chief Executive Officer Department of Fisheries PO Box 774 Carnaryon WA 6701

Below are some of the key considerations within the first phase of the draft Plan; however, interested persons are encouraged to read the draft Plan thoroughly to formulate their own views.

- The existing pink snapper quota management arrangements will be incorporated into the new Plan.
- The existing licence condition that restricts fishing effort for demersal scalefish to 30 days per 100 units of pink snapper entitlement held will remain in place for the first year of the Plan (i.e. 1 September 2010 to 31 August 2011).
- Non-pink snapper demersal scalefish effort entitlement allocations will be determined during the process of implementing the second phase of the Plan on 1 September 2011.
- The waters off Coral Bay (between 23°34'S and 23°07.300'S) are to be incorporated into the Plan. These waters off Coral Bay are the last open access commercial wetline fishing

area in the Gascoyne. Once implemented, the Plan will result in all demersal fishing in the south of the Gascoyne being regulated under one Management Plan.

- The draft Plan contains some new Vessel Monitoring System nominations. In particular a 'trip by trip' nomination of fishing is required to be made prior to leaving a port area or no pink snapper or demersal scalefish can be on board a vessel in the waters of the Gascoyne Demersal Scalefish Managed Fishery.
- Authorised Gascoyne Demersal Scalefish Managed Fishery vessels that have undertaken a fishing trip will need to report their landing details via the 1800 448 277 number 30-60 minutes prior to entering the Carnarvon, Denham or Coral Bay Port Areas. This call previously had to be made immediately before or upon landing fish.
- Only those boats with a Gascoyne Demersal Scalefish Managed Fishery licence will be able to store or transport demersal scalefish on a commercial vessel (including landing ashore) in the waters of the Gascoyne Demersal Scalefish Managed Fishery. The only exceptions to this would include licence holders in the Shark Bay Beach Seine and Mesh Net Managed Fishery, Marine Aquarium Fish Managed Fishery and the West Coast Demersal Gillnet and Demersal Longline Managed Fishery (who under their management plan can legally operate in the waters between 26°S and 26° 30'S). Beach seine or haul net fishing in the waters off Carnarvon would be allowed to continue under an exemption, consistent with the process followed when the *West Coast Demersal Scalefish Fishery (Interim) Management Plan* was implemented.

Next Steps

- 1. The Departement will collate and provide advice to the Minister for Fisheries regarding written comments on the draft Plan and the draft Plan may be amended if Minister considers it appropriate to do so;
- 2. The Plan will be published in the Government Gazette; and
- 3. Existing Shark Bay Snapper Managed Fishery Licensees and all Fishing Boat Licence holders in Western Australia will be written to and advised of the process to apply for a Gascoyne Demersal Scalefish Managed Fishery Licence.

After reading the draft Plan, if you have any questions please call Matt Stadler on (08) 9941 1185 or Stephen Newman on (08) 94827 364.

The significant and constructive input of the *Shark Bay Snapper Fishermen's Association* into the development of the draft plan is valued and appreciated.

Yours sincerely,

Matt Stadler

REGIONAL FISHERIES MANAGEMENT OFFICER, GASCOYNE

2.0 DRAFT GASCOYNE DEMERSAL SCALEFISH MANAGED FISHERY

Fish Resources Management Act 1994

DRAFT GASCOYNE DEMERSAL SCALEFISH MANAGED FISHERY MANAGEMENT PLAN 2010

Contents

FD 182/08 [864]

Made by the Minister under section 54.

PART 1 - PRELIMINARY

- 1. Citation
- 2. Commencement
- 3. Interpretation
- 4. Procedure before this plan may be amended or revoked

PART 2 - THE FISHERY

5. Identification and declaration of the Fishery

PART 3 - LICENCES

- 6. Interpretation in regard to Part 3
- 7. Certain fish to be regarded as demersal scalefish
- 8. Certain fish to be regarded as having been taken from waters of the Fishery
- 9. Certain fish to be regarded as not having been taken by open access line fishing methods
- 10. Criteria for the grant of a licence
- 11. Conversion of usual units of entitlement endorsed on a Shark Bay Snapper Managed Fishery Licence to usual units of entitlement on a licence
- 12. Duration of licences
- 13. Fees
- 14. Items that must be specified on a licence
- 15. Grounds to refuse to transfer a licence
- 16. Grounds for the suspension, cancellation or non-renewal of a licence
- 17. Grounds to refuse a transfer part of an entitlement
- 18. Temporary transfer of part of an entitlement
- 19. Surrender of licence and reallocation of usual entitlement
- 20. Grant of additional licence

PART 4 - CAPACITY OF THE FISHERY

- 21. Capacity of the Fishery
- 22. Scheme of entitlements

PART 5 - AUTOMATIC LOCATION COMMUNICATORS AND NOMINATIONS

- 23. Requirement for approved ALC to be installed in an authorised boat
- 24. Nomination to use an authorised boat in the Fishery
- 25. Nomination of fishing

- 26. Nomination to activate sleep mode
- 27. Nomination to enter closed waters

PART 6 - GENERAL REGULATION OF FISHING

- 28. Prohibition on fishing in the Fishery
- 29. Prohibition on fishing other than in accordance with conferred entitlement
- 30. Prohibition on fishing in excess of entitlement
- 31. Prohibitions in regard to line
- 32. Prohibitions and requirements in regard to the use of boats
- 33. Prohibition on storing, transporting or landing demersal scalefish except in regard to fish in specified condition
- 34. Prohibition on having demersal scalefish on board
- 35. Prohibition on selling, dealing in or purchasing demersal scalefish
- 36. Prohibition on fishing in specified waters
- 37. Exceptions to certain prohibitions
- 38. Defence to section 74 of the Act in respect of contravening clause 30

PART 7 - REQUIREMENTS IN REGARD TO LANDING AND RECORDS

- 39. Notification of landing fish and determination of weight
- 40. Catch and Disposal Records of pink snapper landed in the Fishery
- 41. Whole weight conversion
- 42. Prohibitions in regard to landing fish
- 43. Requirements in regard to records and returns

PART 8 - MISCELLANEOUS

- 44. Closure of an area within the Fishery
- 45. Offences
- 46. Revocation

SCHEDULE 1 - Description of the Fishery

- SCHEDULE 2 Species managed by the Commonwealth that may be taken under an authorisation
- SCHEDULE 3 Fisheries to which certain exceptions apply in regard to prohibitions

SCHEDULE 4 - Whole weight conversion factors- clause 41

- SCHEDULE 5 Closed Areas- clause 36
- SCHEDULE 6 Port areas

SCHEDULE 7- Calculation of unit value- clause 22

Fish Resources Management Act 1994

GASCOYNE DEMERSAL SCALEFISH MANAGED FISHERY MANAGEMENT PLAN 2010

FD 182/08 [864]

Made by the Minister under section 54.

PART 1 - PRELIMINARY

Citation

1. This plan is the Gascoyne Demersal Scalefish Managed Fishery Management Plan 2010.

Commencement

- 2. This plan comes into operation as follows -
 - (a) Parts 1, 2 and 3 on the day this plan is published in the Gazette; and
 - (b) the remainder on I September 2010.

Interpretation

3. 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 units of entitlement" means the usual 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;

" **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 6 centimetres high and 1 centimetre 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;

"inland waters" means the waters of any inlet, estuary, river or creek;

"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 " means the fishery to which the relevant management plan in force in respect of commercial fishing for mackerel relates;

" Marine Aquarium Fish Managed Fishery " means the fishery to which the Marine Aquarium Fish Management Plan 1995 relates;

"**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 finfish;

" plan " means the Gascoyne Demersal Scalefish Managed Fishery 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" means the fishery to which the *Shark Bay Beach Seine and Mesh Net Management Plan 1992* relates, and with respect to the waters described in Schedule 5(b);

"Shark Bay Prawn Managed Fishery " means the fishery to which the Shark Bay Prawn Management Plan 1993 relates;

" Shark Bay Scallop Managed Fishery " means the fishery to which the Shark Bay Scallop Management Plan 1994 relates;

" **Spanish mackerel** " means fish of the common names broad-barred Spanish mackerel and narrow-barred Spanish mackerel described by the scientific classifications opposite those names in Column 2 of Schedule 7 to the regulations;

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

" **usual units of entitlement** " means the entitlement conferred by a permit without regard to any entitlement temporarily transferred to or from the permit under section 141 of the Act.

Procedure before this plan may be amended or revoked

4. 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

Identification and declaration of the Fishery

5. (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

Interpretation in regard to Part 3

6. In this Part -

" **annual catch** " means the 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 (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 has superseded an earlier rate, or where a rate has subsequently been superseded by a later rate, in which case that rate in regard to that fish 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 are recorded 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 July 1997 to 30 June 2003;

"pre-benchmark period" means the period from 1 July 1991 to 30 June 1997;

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

Certain fish to be regarded as demersal scalefish

7. For the purposes of this Part -

- (a) mackerel of the genera *Scomberomorus*, *Grammatorcynus* and *Acanthocybium* that has not been, and cannot be, taken into consideration in connection with a conferral of entitlement to fish in the Mackerel Fishery; 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 Act,

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

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

8. For the purposes of this Part -

(1) 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, a person may elect for those fish to be regarded as having been taken from the waters of the Fishery, except where a person has elected for demersal scalefish taken from the waters of fishing block numbers 2609, 2610, 2611, 2612, 26130 or 26131 to be taken into account in an application for a *West Coast Demersal Scalefish* (*Interim*) *Managed Fishery* permit that was granted.

(2) Where a person does not make an election in accordance with subclause (1), demersal scalefish taken from the waters of fishing block numbers 2609, 2610, 2611, 2612, 26130 or 26131 and not taken into account in an application for a *West Coast Demersal Scalefish (Interim) Managed Fishery* permit are to be regarded as having been taken from the waters of the Fishery.

(3) Where pink snapper or demersal scalefish (as the case may be) are recorded in the relevant fishing history as having been taken from fishing block numbers 2310, 2311, 2312 or 2313, those fish shall be regarded as having been taken from the waters of the Fishery.

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

9. Where any 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 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 that demersal scalefish were taken by open access line fishing methods.

Criteria for the grant of a licence

10. The 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 October 2010; and

- (a) on 1 July 2010 the person was the holder of a licence issued for the purposes of the *Shark Bay Snapper Management Plan 1994*; or
- (b) on 1 July 2010 the person was the holder of a fishing boat licence; and
- (c) in respect of both the pre-benchmark and post-benchmark periods the average annual catch (whole weight) of demersal scalefish or pink snapper (except for pink snapper taken under the authority of a Shark Bay Snapper Managed Fishery Licence), 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 paragraph (b) 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.

Conversion of usual units of entitlement endorsed on a Shark Bay Snapper Managed Fishery Licence to usual units of entitlement on a licence

11. The number of usual units of entitlement to be specified on a licence is the number of usual units of entitlement specified on 31 August 2010 on the Shark Bay Snapper Managed Fishery Licence that was the subject of an application made under clause 10(a).

Duration of licences

12. A licence expires on 31 August in any year following the date of grant or renewal.

Fees

13. The fee payable for the grant of a licence that expires on 31 August 2011 is -

- (a) for a person who does not hold a Shark Bay Snapper Fishery Managed Fishery Licence at the time of application \$308 **per application**; and
- (b) for a person who holds one or more Shark Bay Snapper Managed Fishery Licences at the time of application - \$12.35 for each unit of usual entitlement as conferred by all Shark Bay Snapper Managed Fishery Licences held.

Items that must be specified on a licence

14. A licence granted in respect of the Fishery must specify -

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

Grounds to refuse to transfer a licence

15. The CEO may refuse to transfer a licence on the grounds that the licence holder has not applied to simultaneously transfer any authorisation held by the licence holder and issued under the *Shark Bay Prawn Management Plan 1993* or the *Shark Bay Scallop Management Plan 1994*.

Grounds for the suspension, cancellation or non-renewal of a licence

16. The CEO may suspend, cancel or not renew a licence on the grounds that the number of usual units of pink snapper entitlement conferred by the licence is less than 100 units.

Grounds to refuse to transfer part of an entitlement

17. 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 then the number of units conferred by a licence, disregarding any temporary transfers of units to or from the licence, would be less than 100;
- (b) the value of the units of entitlement (including the value of units temporarily transferred to the licence but excluding the value of units temporarily transferred from the licence to another licence) that would be conferred by the licence after the transfer would be less than the total quantity (whole weight) of pink snapper brought ashore 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.

Temporary transfer of part of an entitlement

18. 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 units of entitlement (including the value of units temporarily transferred to the licence but excluding the value of units temporarily transferred from the licence to another
 - licence but excluding the value of units temporarily transferred from the licence to another licence) that would be conferred by the licence after the transfer would not be less than the total quantity (whole weight) of pink snapper brought ashore from the relevant authorized boat or taken with the use of the relevant authorized boat during the period for which the licence has been granted or renewed; and
- (b) the transfer is of a whole number of units.

Surrender of licence and reallocation of usual entitlement

19. (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;
- (b) where another licence has been surrendered under section 144 of the Act;

(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 any licence.

Grant of additional licence

20. (1) The criteria to be satisfied before the CEO may grant a person a licence to fish in the Fishery are that -

- (i) immediately upon the grant of the licence an application would be made under section 140 of the Act to transfer units of entitlement to the licence from another licence;
- (ii) the application referred to in paragraph (i) would be in respect of not less than 100 units; and
- (iii) immediately upon receipt of the application referred to in paragraph (i) the CEO would transfer the units to the licence (if it had been granted).

(2) For the purposes of subparagraphs (1)(b) 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 19.

(2) An additional licence cannot be granted if the primary licence would not confer a minimum of 100 units of entitlement following the grant of an additional licence.

(3) The fee payable for a licence granted in accordance with this clause is the fee listed at Part 2 Schedule 1 of the regulations for the application for the transfer of part of an entitlement.

PART 4 - CAPACITY OF THE FISHERY AND SCHEME OF ENTITLEMENTS

Capacity of the Fishery

21. The capacity of the Fishery for the purpose of determining pink snapper entitlement is 276,750 kilograms of pink snapper (whole weight).

Scheme of entitlements

22. (1) The sum of the entitlements to fish for pink snapper that may be conferred by all the licences endorsed with the authority to fish for pink snapper is equal to the capacity of the Fishery as provided for in clause 21.

(2) The entitlement to fish for pink snapper conferred by a licence shall be expressed in terms of units of entitlement.

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

(4) The CEO may allocate a distinguishing letter, number or mark or any combination thereof in respect of each unit of entitlement conferred by a licence.

PART 5 - AUTOMATIC LOCATION COMMUNICATORS AND NOMINATIONS

Requirement for approved ALC to be installed in an authorised boat

23. (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 authorised boat a legible copy of the approved directions.

(3) It is a condition of the licence that an 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.

Nomination to use an authorised boat in the Fishery

24. (1) A person must not use an authorised boat to fish for pink snapper or demersal scalefish in the Fishery unless a nomination to enter the Fishery has been received by the Department and is in effect under subclause (2).

(2) A nomination to enter the Fishery must be made, and may be cancelled, by the relevant approved ALC in accordance with the approved directions, and a nomination ceases to have effect -

- (a) on 31 August in any year in respect of which it was made;
- (b) if the relevant authorised boat leaves the waters of the Fishery;
- (c) upon the transfer of the relevant licence under section 140 of the Act; or

(d) if the nomination is cancelled in accordance with the approved directions.

(3) A nomination does not cease to have effect where the authorised boat is in a port area or on land and the sleep mode facility of the ALC is in operation.

Nomination of fishing

25. (1) The master of an authorised boat must not -

- (a) 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 made in respect of that boat -

- (i) by the use of an ALC in accordance with the approved directions; and
- (ii) which is in effect in accordance with this clause.

(2) A nomination of fishing must -

- (a) specify the name and contact details of the master of the boat; and
- (b) be made -
 - (i) not more than 2 hours prior to entering the fishery and fishing for pink snapper or demersal scalefish; or
 - (ii) where a boat is in the waters of the Fishery, not more than 2 hours prior to leaving on a fishing trip from a port area; and
- (c) be made in regard to each fishing trip undertaken under the authority of a licence.

(3) A nomination made contrary to the provisions of subclause (2) is of no effect.

(4) The holder of a licence or the person acting on that person's behalf may, in accordance with subclause (2), make a new nomination from within a port area which, if received by the Department, revokes any previous nomination.

(5) The master of an authorised boat must not allow that boat to be used in contravention of a nomination made under this clause.

(6) A nomination made under subclause (2) or subclause (4) ceases to have effect -

- (a) at the time the authorised boat leaves the waters of the Fishery; or
- (b) when the licence is transferred under s.140 of the Act; or
- (c) when the licence expires.

Prohibition on activating sleep mode

26. (1) The master of an authorised boat must not activate the sleep mode facility of an approved ALC except -

- (a) where the boat is in a port area, or on land; and
- (b) immediately after nominating by approved ALC to activate sleep mode in accordance with the approved directions.

(2) The master of an authorised boat must not use the boat in any waters of the Fishery outside a port area at any time when the sleep mode facility of the approved ALC is activated.

Nomination to enter closed waters

27. (1) The master of an authorised boat must not allow that boat to enter -

- (a) waters that are closed under clause 44; or
- (b) waters in which that boat is not authorised to be used for fishing in the Fishery,

unless -

- (i) all fishing gear is securely stowed, and
- (ii) notification of entering the waters specified in paragraph (a) or (b) has been made -(I) not more than one hour before the boat enters those waters; and
 - (II) by the use of an ALC in accordance with the approved directions for use.

(2) A nomination made contrary to this clause is of no effect.

PART 6 - GENERAL REGULATION OF FISHING

Prohibition on fishing in the Fishery

28. Subject to clause 37, a person must not fish in the Fishery other than -

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

Prohibition on fishing other than in accordance with conferred entitlement

29. (1) The holder of a licence must not fish in the waters of the Fishery unless the licence confers a minimum **pink** snapper entitlement of 100 units.

(2) Subclause (1) does not apply in regard to a licence where at the time of grant the holder was the holder of a licence issued for the purposes of the *Shark Bay Snapper Management Plan 1994* as well as the holder of an authorisation issued for the purposes of -

(a) the Shark Bay Prawn Management Plan 1993; or

(b) the Shark Bay Scallop Management Plan 1994.

Prohibition on fishing in excess of entitlement

30. 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 onboard or transport any pink snapper or demersal scalefish on; or

(d) bring onto land from the waters of the Fishery any demersal scalefish or pink snapper from,

the relevant authorised boat, unless the whole weight, as determined in accordance with clause 41, of all pink snapper or demersal scalefish -

- (i) brought onto land 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.

Prohibitions in regard to gear

31. (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 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.

(3) Subclause (2) does not apply to -

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

Prohibitions and requirements in regard to the use of boats

32. (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) 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 other than bait or fish taken under the authority of the relevant licence.

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

33. (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, other than -

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

(2) Subclause (1) does not apply to -

(a) the holder of a fish processor's licence issued in accordance with the Act.

(3) All fillets that are stored, transported or landed are taken to be **pink** snapper.

Prohibition on having demersal scalefish on board

34. Subject to clause 37, 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.

Prohibition on selling, purchasing, or dealing in demersal scalefish

35. Subject to clause 37, 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.

Prohibition on fishing in specified waters

36. 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).

Exceptions to certain prohibitions

37. (1) Clause 28 does not apply to -

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

(2) Clause 34 does 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 issued under a management plan for a fishery specified in Schedule 3;
- (b) a licensed fishing boat in respect of which a fishing tour operator's licence or aquatic ecotourism 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.

(3) Clause 35 does not apply in regard to -

(a) persons selling, purchasing, or dealing, or attempting to sell, purchase or deal in pink snapper or demersal scalefish under the authority of an authorisation issued under a management plan for a fishery specified in Schedule 3; or

(4) Clause 36 does not apply -

- (a) to a person fishing under the authority of a *Marine Aquarium Fish Managed Fishery Licence*; or
- (b) in regard to recreational fishing.

(5) Clause 36(b) does not apply to a person fishing under the authority of a *Shark Bay Beach Seine* and *Mesh Net Managed Fishery Licence*.

Defence to section 74 of the Act in respect of contravening clause 30

38. It is a defence in proceedings for an offence against section 74 of the Act in respect of contravening clause 30 for the person charged to prove that -

- (a) notice of the fishing in excess 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 processed or moved from the place of landing, or within 7 days of being notified by the Department, whichever is the earlier; and
- (b) the amount of pink snapper by which the entitlement under the licence was exceeded is not more than 100 kilograms whole weight; and
- (c) the licence holder, not more than 14 days after the taking of the pink snapper or being notified by the Department, 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 entitlement was

exceeded and the prescribed value (per unit of weight) for the pink snapper, as specified in Schedule 9 to the regulations.

PART 7 - REQUIREMENTS IN REGARD TO LANDING AND RECORDS

Notification of landing fish and determination of weight

39. (1) A master must transmit a notice to the relevant call service in respect of the landing of any pink snapper or demersal scalefish ashore from that boat -

- (a) no earlier than 30 minutes prior to entering; and
- (b) no later than 60 minutes prior to entering,

the waters of the Carnarvon, Coral Bay, or Denham port areas.

(2) A person must not transmit any information in accordance with subclause (1) that the person knows to be false or misleading.

(3) A notification made in accordance with subclause (1) must be made in a manner and form specified in writing by the CEO.

(4) A person must not remove any fish from the place where the fish were landed -

- (a) unless subclause (1) has been complied with;
- (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 (1).

(5) Where the CEO issues a consignment number in respect of a notice given under subclause (1) the master must make and keep a record of that consignment number.

(6) 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 CEO.

(7) For the purposes of subclause (6), 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.

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

(9) For the purposes of subclause (8) 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.

(10) 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 (8) and clause 40 have been complied with.

(11) In this clause -

" master " means the master of an authorised boat from which any pink snapper or demersal scalefish are landed ashore;

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

Catch and Disposal Records of pink snapper landed in the Fishery

40. (1) The master of an authorised boat from which **pink snapper** have been landed ashore in the fishery must -

- (a) within 240 minutes of landing any pink snapper ashore 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;

(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);

(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);

- (iv) the name of the employer of any person who is to transport the pink snapper;
- (v) the number of containers in which the pink snapper are consigned;
- (vi) the determination of the weight of pink snapper, as determined in accordance with clause 41, and whether the weight is of whole, filleted, gutted, gilled, or gutted and gilled, fish;
- (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 taken under the authority of the licence during the period for which it has been granted or renewed, calculated in accordance with clause 41; and
- (b) not depart, and not permit the pink snapper to be removed, from the place where the weight of the pink snapper was landed, until the matters specified in paragraph (a) have been complied with.

(2) A person to whom subclause (1) applies must -

- (a) retain and keep in a safe and secure place the triplicate copies of the completed consignment note referred to in clause 39(6) 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 39(6), to the office of the Department at Carnarvon or Denham -

(i) within 168 hours of landing any pink snapper ashore at Coral Bay Harbour; or

(ii) within 72 hours of landing any pink snapper ashore at any place other than Coral Bay Harbour,

as the case requires.

(3) A person must not make an entry in accordance with subclause (1) that the person knows to be false or misleading.

(4) 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;

Whole weight conversion

41. For the purposes of this Part, where a quantity of demersal scalefish or 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 -

- (i) has been filleted; or
- (ii) has been gilled; or
- (iii) has been gutted; or

(iv) is a combination of gilled, gutted, or gilled and gutted, fish,

that weight in kilograms multiplied by the relevant conversion factor specified in Schedule 4.

Prohibitions in regard to landing fish

42. (1) The master of an authorised boat must not land any pink snapper or demersal scalefish ashore, or allow any pink snapper or demersal scalefish to be landed ashore, 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 demersal scalefish or pink snapper, 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 and in the possession of a person fishing under the authority of an authorisation issued under a management plan for a fishery 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.

Requirements in regard to records and returns

43. (1) The master of an authorised boat must complete all records required to be made.

(2) The master of an authorised boat who is required to keep records under this clause must-submit returns in respect of all fishing in the Fishery.

- (3) A copy of a return to be submitted to the CEO under subclause (2) must be delivered -
 - (a) to the address specified on the approved form; and
 - (b) not later than the 15th day of the calendar month following the calendar month to which the information in the copy of the return relates.

PART 8 - MISCELLANEOUS

Closure of an area within the Fishery

44. (1) The CEO may, by notice published in the Gazette, prohibit any fishing activity in 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; or
- (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 on whose licences are specified the parts of the Fishery in which the prohibition is to apply; and
- (b) may apply at all times or for a specified period; and

(c) revokes any previous notice made under that subclause.

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

Offences

45. A person who contravenes a provision of -

- (a) clauses 23, 24, 25, 28, 29, 30, 31, 32, 33, 34, 35, 36, 39, 40, 42 and 44; or
- (b) clause 25, 26 and 43;

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

Revocation

46. The *Shark Bay Snapper Management Plan 1994*, published in the Gazette on 22 July 1994, is revoked on the date of commencement of this plan, in accordance with clause (2)(b).

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 its intersection with 26°30.00' south latitude; thence extending east along the geodesic to the intersection with the high water mark on the coastline of Western Australia; thence following the high water mark on the mainland to the commencement point.

SCHEDULE 2

Species managed by the Commonwealth that may be taken under an authorisation

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

SCHEDULE 3 Fisheries to which certain exceptions apply in regard to prohibitions

Marine Aquarium Fish Managed Fishery Shark Bay Beach Seine and Mesh Net Managed Fishery

West Coast Demersal Gillnet and Demersal Longline Managed Fishery

SCHEDULE 4 Whole weight conversion factors

- (a) For fillets of fish 3.0
- (b) For gilled, or gutted, or gilled and gutted, fish 1.2

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) waters of the Shark Bay Beach Seine and Mesh Net Managed Fishery:

All the waters 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 Ropke 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 closes to 113° 54.441' east longitude).

SCHEDULE 6 Port Areas

Denham

All the waters of the Fishery within two nautical miles of the intersection of 25° 55.71' South latitude and 113° 31.99' East longitude.

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.

Coral Bay

All the waters of the Fishery within two nautical miles of the intersection of 23^o 09.288' South latitude and 113° 45.975' East longitude.

SCHEDULE 7

Calculation of unit value

The value of a unit of entitlement is determined by the formula:

C ---- = U N

Where:

C is the capacity of the Fishery at the relevant time; N is the total number of units conferred by all the relevant licences at the relevant time; and U is the unit value.

Dated this

day of

2010.

Minister for Fisheries.

3.0 GAZETTAL

