

**MANAGEMENT OF THE PROPOSED
SOUTH WEST BEACH SEINE FISHERY**

MANAGEMENT DISCUSSION PAPER

FISHERIES MANAGEMENT PAPER NO. 184

Department of Fisheries
168 St Georges Terrace
Perth WA 6000

January 2005

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South West Beach Seine Fishery

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SUBMISSIONS TO THIS DISCUSSION PAPER

This *Management Discussion Paper for the proposed South West Beach Seine Fishery* is designed to inform the fishing community and general public about the issues and management proposals relating to the South West Beach Seine Fishery (the fishery). The Department of Fisheries (the Department) encourages comment about the issues raised and the proposed management recommendations in this report.

Points To Consider For Submissions

To ensure that your comments are as effective as possible, please:

- Make your submission in writing (typed if possible) and keep a copy for yourself.
- Clearly and briefly describe each separate subject you wish to discuss,
- Assist us by referring to the different section/s and page numbers and recommendations in the paper,
- Tell us whether you agree or disagree with any or all of the recommendations or issues identified under each heading,
- Clearly state your views and quote sources of information where appropriate, and
- Suggest alternative ways to resolve any of the issues you have raised having regard to the fact that the Minister must balance competing and conflicting submissions as best he can in order to satisfy the objects of the *Fish Resources Management Act 1994* (the FRMA).

Where and When to Send Your Submission

The closing date for submissions is 31 March 2005. Please send your submission before this date, along with your full name, address, and association details (if applicable) to:

The Executive Director
Attention: Commercial Fisheries Management Officer - South
Southern Regional Office
The Department of Fisheries
Suite 7 Frederick House
70-74 Frederick Street
ALBANY 6330

Where to get Extra Copies of this Document

For extra copies of the paper, please contact:

The Department of Fisheries
Locked Bag No 39
Cloisters Square Post Office
PERTH WA 6850
Ph: (08) 9482 7333
or
Southern Regional Office
(08) 9841 7766

SECTION 1 BACKGROUND

The development of management arrangements for the fishery has been ongoing for more than a decade. The following is a summary of the major events that have occurred during this time.

6 October 1989 - The then Minister for Fisheries announced a freeze on the number of commercial fishermen permitted to fish from south west beaches using beach seine gear (Appendix A). In that media release, the Minister also stated that people who had commercially fished [from the beaches in the area] between 1 July 1986 and 30 June 1989 were to be granted an “interim endorsement to fish the area”. However, the interim endorsements were not issued.

27 July 1990 - Notice No. 416 “*The South West Beach Seine Fishery Notice*” (see Existing Law Section) was gazetted thus giving effect to the freeze. The Notice effectively prohibited commercial beach seine fishing in the south west coast between Tim’s Thicket Point and Point D’Entrecasteaux (see diagram Area of the Proposed Fishery at Appendix B).

April 1993 - Fisheries Management Paper No. 50 “*The South West Beach Seine Fishery Draft Management Plan*” was released for public comment. However, the implementation of the plan was delayed pending the outcomes of a whitebait research project in the area, which was conducted between 1991 and 1994. The results of the research project were presented in January of 1994, but in the meantime, the issue of Native Title had been raised for all Western Australian fisheries, and a Department policy position on the matter needed to be resolved prior to further development of the plan.

November 1995 - The then Minister for Fisheries had noted a summary of submissions to the proposed management plan and had approved the Department’s recommendations for the development of the plan. However, Section 64(2) of the FRMA (which came into effect on 1 October 1995) requires that the Minister undertake certain consultation and public notification procedures before determining a management plan. These procedures had not been completed during the development of the draft management arrangements prior to the introduction of the FRMA, but it was necessary to undertake them after the FRMA came into effect.

May 1996 - The then Minister for Fisheries informed the Western Australian Fishing Industry Council (WAFIC) of his concerns regarding the use of boat size/boat replacement policies as a fisheries management tool and that further consideration of the issue “may result in the delay of the implementation of some plans”. The Minister at that time also commented that the boat replacement policy contained in the draft management arrangements for the fishery had not been sufficiently addressed and subsequently, the Minister did not approve the drafting of a management plan.

September 2000 - The Department proposed to introduce management arrangements that effectively combined the South West Coast Salmon Managed Fishery and the South West Beach Seine Fishery. Industry rejected the proposal, instead calling for the South West Beach Seine Fishery to be managed as a separate fishery.

December 2000 - The peak recreational fishing organisation (Recfishwest), South West Coast Salmon Managed Fishery licence holders and south west beach seine fishermen approached the Minister with a proposal to reduce the number of south west beach seine operators (especially those fishing for salmon and herring) through a Voluntary Fisheries Adjustment Scheme (VFAS). However, none of the fishermen operating in the fishery had an endorsement to operate beach seine nets, and therefore did not have any relevant beach seine authorisations that could be properly surrendered to a VFAS.

December 2001 - The Minister approved the drafting of a Section 43 Order to provide a static framework for the management of the fishery. The Department considered that an exception to a new Section 43 Order prohibition (in the form of a schedule to the Order) would provide sufficient identification of beach seine fishermen in connection with the surrender of associated fishing boat licences under a VFAS.

February 2002 - The Minister approved draft management arrangements for beach seine fishing in the south west of the State. The proposal for management arrangements, developed to run in conjunction with a VFAS, was intended to reduce the number of operators in the South West Coast Salmon Fishery prior to the implementation of a management plan for the South West Beach Seine Fishery. It was intended that fishermen would be provided an “authority” to fish by way of being listed in the Schedule as exceptions to a prohibition under a Section 43 Order (see Section 9 of this paper) while the VFAS was conducted, and other management arrangements were developed. However, industry again rejected this proposal indicating that the form of management of the proposed fishery should not be dependent on the outcomes of a VFAS. Industry members also took issue with the likelihood that if a “legitimate” commercial beach seine fisherman was not listed in the schedule of the Notice, any related decision was not subject to an objections process.

September 2002 - The Department agreed to investigate the development of alternative management arrangements for the fishery based largely on what had been established during the developmental stages in the early 1990s.

This management discussion paper is an outcome of the most recent process, and has been prepared for the purpose of presenting the history of the fishery and the current legislation, and to seek comment on potential legislative options and a range of proposed management arrangements for the fishery that are largely consistent with current fishing practices.

Please note this paper does not propose any change to the management arrangements for commercial salmon fishing in the south west of the State. Commercial salmon fishing in the south west, at this stage, will continue to be managed separately to beach seine fishing under the *South West Coast Salmon Fishery Management Plan 1982*.

SECTION 2 FISHERY OVERVIEW

2.1 Catch information

Whitebait (*Hyperlophus vittatus*) is the species primarily targeted in this fishery. In recent years, the total catch of whitebait increased from 175 tonnes in 2000 to 197 tonnes in 2001, and then decreased to 165 tonnes in 2002. Whitebait catches have varied considerably since records were first collected in 1975 (see Figure 1). It is thought that the abundance (and therefore catch) of whitebait is heavily dependent on environmental factors (e.g. the relative strength of the Leeuwin current).

At an average beach price of \$1.80/kg, the total value of the whitebait component of the fishery was approximately \$354,600 in 2001. In more recent years, the beach value of whitebait has increased to about \$2.60/kg. The total catch value of the whitebait component of the fishery increased to approximately \$429,000 in 2002.

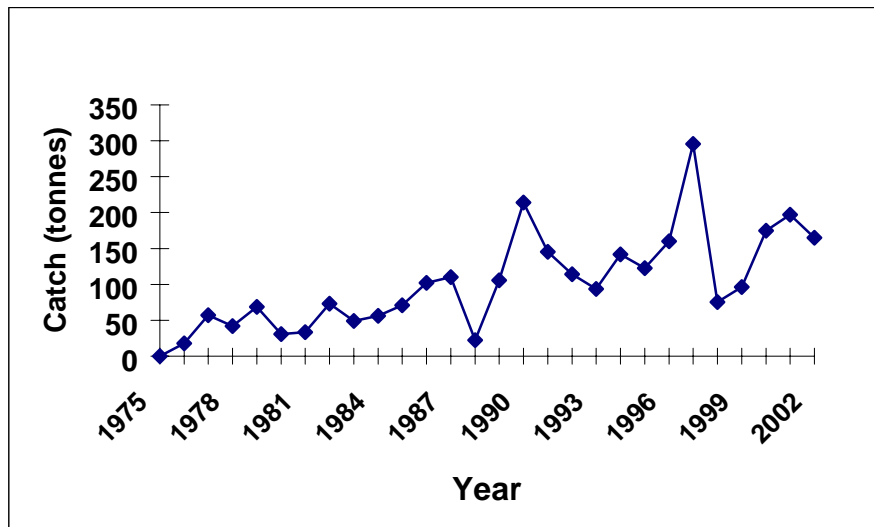


Figure 1. Whitebait catches in the area of the proposed fishery (1975 – 2002)

Approximately 73.7 tonnes of fish other than whitebait were taken in the area of the fishery (see Appendix B) in 2002. This consisted mainly of sea mullet (*Mugil cephalus*), western sand whiting (*Sillago schomburgkii*) and blue sprat (*Spratelloides robustus*). The total beach value of species other than whitebait caught in 2002 was about \$162,000.

Further information and comment regarding whitebait and other fish species taken in this fishery can be found in the West Coast Beach Bait Managed Fishery Status Report in the most recent Department of Fisheries State of the Fisheries Report, which is available online at <http://www.fish.wa.gov.au/sof>

2.2 Commercial Fishing Methods

2.2.1 Beach Seining

A typical beach seine netting operation involves the fisherman driving along a beach in a four-wheel drive vehicle towing a dinghy while searching for schools of fish. When a school is sighted, a decision is made whether the school is of a desirable species or size to warrant making a “shot”. A “shot” involves running the seine net off the dinghy in a semi circle and enclosing the school of fish between the net and the shore.

Seine nets differ to haul nets in that they have a “bunt” or “pocket” built into the net that can further restrict the lateral movement of a school of fish when the net is being hauled. Having a bunt on the net is particularly useful when fish are hauled onto a beach.

2.2.2 Ring netting

A ring net (in this fishery) is approximately 300 metres in length and is used from a boat to catch fish in relatively shallow water. The majority of the net (about 250m) is no different to a standard haul net. However, approximately 50 metres of one end of the net has metal rings spaced every few metres along the lead (bottom) line. A rope is threaded through the rings prior to the net being shot around a school of fish. When the net has been fully shot, it is slowly retrieved and when the last 50 metres of “ringed” section is all that remains in the water, the ring rope is hauled and the net “pursed” up to the boat. The fish are then scooped from the pursed section of the net into the boat.

2.2.3 Small purse seine netting

Small purse seine nets are similar to the purse seine nets that are used to fish for pilchards in the West Coast Purse Seine Managed Fishery, but small purse seine nets are generally shorter. The difference between a small purse seine net and a ring net is simply that purse seine nets have “purse rings” along the entire length of the net and they can therefore be used more effectively in deeper water, typically from larger boats. Small purse seine nets are reportedly used to fish for species such as whitebait and bluebait.

2.2.4 Net hauling issues

The use of powered hauling devices is currently prohibited unless the fishing boat licence of the boat being used is endorsed to operate with such equipment. Powered hauling devices can increase the efficiency of purse seine and ring netting operations by allowing larger nets to be used, speeding up the net hauling process and reducing the amount of human effort required to haul the net (compared to hand hauling).

However, occupational health and safety issues must also be considered. Some fishermen argue that the use of powered hauling devices may reduce the likelihood of injuries to the fisherman involved. It may also allow older fishermen to continue to participate in the fishery.

The counter argument is that the use of powered hauling equipment on a small, crowded dinghy can also pose safety risks that may be greater than those associated with hand hauling (particularly if the hauling equipment is “home made” and does not have the appropriate safety guards) and that regardless of the rules that apply in a fishery, it is the skipper’s responsibility to ensure that nets are hauled in a safe way and that crew are capable of hauling the net and are appropriately trained. Nonetheless, it is proposed that alternative fisheries management mechanisms (such as maximum net lengths, temporal and spatial closures) will be used to regulate effort in this fishery as opposed to restricting the use of hauling equipment that may improve net hauling efficiency.

SECTION 3 MANAGEMENT OBJECTIVES

The management objectives of this fishery must be consistent with the relevant objects listed at Part 1, Section 3 of the FRMA. In the context of this fishery, these include:

1. *To conserve fish and protect their environment.*
2. *To ensure that the exploitation of fish resources is carried out in a sustainable manner.*
3. *To enable the management of fishing, aquaculture and associated industries and aquatic eco-tourism.*
4. *To foster the development of commercial and recreational fishing and aquaculture.*
5. *To achieve the optimum economic, social and other benefits from the use of fish resources.*
6. *To enable the allocation of fish resources between users of those resources.*

In addition to the broad objects of the FRMA, specific process objectives for the fishery are:

1. **To provide for the sustainable use of all species of fish taken in the fishery, particularly whitebait and bluebait.** A research report conducted into whitebait between 1991 and 1994 concluded that stocks of whitebait were being sustained at that time, but any increase in fishing pressure could endanger stocks in future years (Fisheries Research Report 108).
2. **To mitigate conflict between the various users of fish resources in the area of the fishery.** The coastal area between Bunbury and Dunsborough in particular has seen a large expansion in both residential and tourism uses over the past decade. Each year, over 300,000 tourists visit Busselton, with the busiest time for the surrounding south west region being January to June (WA Tourism Commission, 2001). This period includes school holidays, Easter and the Foundation Day long weekend.

In addition, whitebait and bluebait are considered as important species in the food chain, and are known to be a major food item for predatory seabirds such as terns and penguins and for predatory fish such as tailor and herring (Fisheries Management Paper 50). Any proposed management arrangements for the fishery should provide for these wider ecological requirements.

3. **To maximise the social and economic benefits to the community from the fishery, particularly in the major population centres of Augusta, Dunsborough, Busselton and Bunbury.** The extent to which the social and economic benefits from the fishery should flow to the local communities of Augusta, Dunsborough, Busselton and Bunbury is a relevant consideration for the Minister. It may be appropriate for the majority of the benefits to flow to these communities.

SECTION 4 JURISDICTION

The Parliament of the State of Western Australia has power to make laws with respect to fisheries within 3 nautical miles of the shore (known as "coastal waters") and also in some circumstances outside of coastal waters. Offshore Constitutional Settlement Arrangements between Western Australia and the Commonwealth may also distribute legislative power in respect of fisheries both within and outside of the State coastal waters but are not relevant to the fishery referred to in this paper.

SECTION 5 THE EXISTING LAW

The FRMA and the *Fish Resources Management Regulations 1995* (the FRMR) generally provide the power for the Minister and the Department to manage the use of fish resources in Western Australia. Section 43 of the FRMA allows for the Minister to make an Order to prohibit persons or any specified class of persons from engaging in any fishing activity of a specified class. Orders made by the Minister are published in the Government Gazette.

There are a number of current Orders that relate to the gear, species of fish and/or area of the fishery. The list below describes each of these Orders (previously called Notices), and how they relate to the fishery. It also indicates the likely action required with respect to each Order if the proposed management arrangements described in Section 10 of this paper are adopted, and the activity regulated by that Order is instead managed under that framework.

Notice 267 of 1987 (Prohibition of purse seine netting for salmon, mulloway, snapper and herring.)

This Order prohibits the use of purse seine nets to take salmon, mulloway, snapper and herring.

Order 267 of 1987 would continue to apply if an Interim Management Plan for the fishery is established. Permit holders in the fishery would not be able to use purse seine nets to take these species.

Notice 312 of 1988 (Prohibition on use of purse seine nets for taking fish unless endorsed.)

This Order prohibits all persons, (other than the class of person described in the schedule of the Order) from using purse seine nets for taking fish. The order provides for exceptions by reference to certain fishing boat licences, and these have historically been identified by a range of FBL conditions. These conditions include condition 43, 67, 93, 95, 196 and condition 333 (hand hauled purse seine nets).

If an Interim Management Plan was established for the fishery, fishing boats that are intended to be used under the authority of the plan to operate a small purse seine net would need to be identified for the purposes of this Order.

Notice 443 of 1990 (Closed waters netting [Preston Beach to Dunsborough])

This Order prohibits fishing by means of nets in a number of different areas off the coast between Preston Beach (north of Bunbury) and Dunsborough. Beaches where netting is generally prohibited currently include Myalup Beach, Binningup Beach, Hungry Hollow Beach, Peppermint Grove Beach, the Beach between Guerin Street and Dolphin Road Busselton, the beach between Dolphin Road and Siesta Park, Busselton and Dunsborough.

This Order would be amended so that it does not apply to the commercial sector upon the implementation of an Interim Management Plan for the fishery. Through the inclusion of similar spatial and temporal closures as currently described in Notice 443 of 1990, all commercial finfish netting activity in the waters of the fishery would be managed under the Interim Management Plan. The issue of fishing for crabs in the same waters would be dealt with in the proposed Geographe Bay crab fishery and Mandurah-Bunbury crab fishery management arrangements. The proposed area closures for the fishery are listed at Section 10.7 of this paper.

Notice 416 of 1990 (South West Beach Seine Fishery Notice 1990)

This Order currently prohibits beach seine fishing between Tim's Thicket (32°40' S) and Point D'Entrecasteaux and therefore encompasses the entire area of the proposed fishery. This Order would be repealed immediately following the implementation of the proposed Interim Management Plan for the fishery. If the Interim Management Plan for the fishery is implemented and then subsequently expires, the Department would recommend that the Minister re-instate this Order.

Notice 444 of 1990 (Closed waters netting [Cape Naturaliste to Windy Harbour])

This Order prohibits fishing by means of nets in a number of different areas off the coast between Cape Naturaliste and Windy-Harbour. Areas where netting is generally prohibited include Yallingup Bay, Canal Rocks, Cowaramup Bay and Windy Harbour.

This Order would be amended so that it does not apply to the commercial sector upon the implementation of an Interim Management Plan for the fishery. Through the inclusion of similar spatial and temporal closures as currently described in Notice 444 of 1990, all commercial finfish netting activity in the waters of the fishery would be managed under the Interim Management Plan. The proposed area closures for the fishery are listed at Section 10.7 of this paper.

Notice 459 of 1990 (Prohibition on use of set nets [Cape Naturaliste to Capel River] Notice 1990)

This Order prohibits the use of set nets within 400 metres of the high water mark between Cape Naturaliste and the Capel River. The proposed fishery management arrangements do not provide for the use of set nets, and would effectively prohibit the use of all set nets in the area of the fishery unless a person was operating in accordance with the FRMA in another managed fishery.

It is necessary to maintain this Notice to ensure current commercial set netting rules for other fisheries remain in place in the waters between Cape Naturaliste and Capel River.

Please note: All south west waters (Myalup Beach to Black Point) are closed to recreational set netting at all times except the waters of the Leschenault Estuary and Hardy Inlet (see the Recreational Net Fishing Guide for further information).

Notice 476 of 1991 (Prohibition on the use of fishing net drums, pneumatic power blocks or similar devices for taking fish unless endorsed.)

The proposed management arrangements for the fishery allow the use of some powered hauling devices (such as winches, hand hauled reels and other similar devices) from vessels operating in the fishery. Similarly, all beach nets used in the fishery may be hauled using powered devices including land-based vehicles (such as a four wheel drive).

This Order would need to be amended to allow for the use of certain powered hauling devices (excluding net drums) in the fishery.

Order No 571 of 1992 (Pilchard fishing [professional] restrictions notice 1992)

It is likely that pilchards (in practice) could be taken in the waters of the fishery using small purse seine nets. The proposed South West Beach Seine Fishery Interim Management Plan should specifically exclude (prohibit) the take of pilchards. The take of this species and any other species defined in the *West Coast Purse Seine Fishery Management Plan 1989* should be managed under that plan.

Notice 725 of 1995 (Yallingup Reef Protected Area Notice 1995)

Although the area referred to in this Order is within the area of the fishery, the Order does not prohibit the take of finfish, and should therefore not have any impact on the fishery.

Order No 9 of 1998 (Prohibition on fishing [Cowarumup Bay] Order 1998)

Although the area referred to in this Order is within the area of the fishery, the Order does not prohibit the take of finfish, and should therefore not have any impact on the fishery.

Order No. 7 of 2002 (Prohibition on Commercial Fishing [Leschenault Estuary] Order 2002.)

This Order prohibits commercial fishing in all the waters of Leschenault Estuary, its tributaries and the waters of the channel connecting the estuary to Koombana Bay. The Order also prohibits all commercial fishing within 400 metres of the westernmost extremity of the northern groyne at the seaward entrance to "The Cut".

The waters within 400 metres of the seaward entrance to "The Cut" are waters of the fishery. However, as Order 7 of 2002 prohibits all types of commercial fishing in that area (and not just net fishing) it is appropriate that the prohibition remain in this Order and not be placed in the proposed South West Beach Seine Fishery Interim Management Plan.

SECTION 6 NATIVE TITLE

Legislation that is enacted on or after 1 July 1993 is subject to the ‘future act’ regime under the Commonwealth’s *Native Title Act 1993* (the NTA).

In 1999, the Department obtained a ‘Report for Fisheries Western Australia’ in respect of the interaction between fisheries/pearling legislation and the NTA. That Report advised that –

1. The very wide scope of what can be done under a management plan means that they do have the potential to affect native title and therefore would be future acts for the purpose of the NTA.
2. Because the management plan would be covered by NTA s24HA, it can be validly made without the need for any specific native title notification or comment procedure.
3. While specific notification is not required, it would however be prudent for comment to be sought from any native title parties likely to be affected by the management plan under the provisions of the FRMA s64(2).
4. The granting of licences and permits under management plans will not be future acts in their own right and they can therefore be granted without the need for any native title procedure or notification requirement.

In accordance with point 3 above, the Department will provide native title party(s) with an opportunity to comment on the development of management arrangements for the fishery.

SECTION 7 NATIONAL COMPETITION POLICY

Clause 5(1) of the Competition Principles Agreement (CPA) requires that

“...legislation (including Acts, enactments, Ordinance or Regulations) should not restrict competition unless it can be demonstrated that:

- (a)the benefits of the restriction to the community as a whole outweigh the costs; and***
- (b)the objectives of the legislation can only be achieved by restricting competition.”***

Clause 5(5) of the CPA continues to specify that

“...new legislation that restricts competition (will) be accompanied by evidence that the legislation is consistent with the principle set out in subclause (1).”

Apart from general policy considerations for Government around the “property rights” issues in fisheries, legislative restrictions on resource competition for the sole purposes of sustainability and biodiversity are usually not inconsistent with Competition Policy principles. The judgement is whether the restrictions directly and effectively target these objectives and represent an appropriately measured and balanced constraint on competition (that is, the overall restriction(s) on competition is (are) not excessive for the purpose).

A National Competition Policy Assessment has been completed for each of the proposed management arrangements described in Section 10 of this paper. Assessments can be found at Appendix C.

After the Minister has considered the submissions to this paper and the management options, he will be asked to make a decision about how the management of the fishery would be best implemented. In the event that this results in management proposals materially different to the proposed directions listed in this paper, National Competition Policy assessments will be completed for those arrangements.

SECTION 8 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Fisheries Management Paper No. 157 (September 2001) sets out the policy for the implementation of ecologically sustainable development for Fisheries and Aquaculture within Western Australia.

The policy contends that management arrangements should include:

- 1. Explicit description of the management unit*
- 2. The issues addressed by the plan*
- 3. Descriptions of the stocks, their habitat and the fishing activities*
- 4. Clear operational (measurable) objectives and their associated performance measures and indicators*
- 5. Clearly defined rules, including what actions are to be taken if performance measures are triggered*
- 6. Economic and social characteristics of the groups involved in the fishery*
- 7. Management and regulatory details for the implementation of the actual management plan*
- 8. The reporting and assessment arrangements*
- 9. How and when review of the plan will occur (including consultation mechanisms)*
- 10. A synopsis of how each of the ESD issues are being addressed*

Despite that this fishery has no currently recognised export component, the Department intends to complete an assessment of the fishery so that the Department of Environment and Heritage (DEH) may assess the fishery against the Commonwealth Guidelines for the ecologically sustainable management of fisheries.

A successful application against these guidelines that meets requirements under Part 13 A of the *Environment Protection and Biodiversity Conservation Act, 1999* (the EPBC Act), would enable the produce of this fishery to be listed at the section 303DB list of species that are exempt from export regulations.

SECTION 9 POTENTIAL MANAGEMENT OPTIONS UNDER THE FRMA

There are effectively 5 different types of fisheries management options available under the FRMA. These include:

- Section 43 Orders
- Section 251 – Exclusive Licences
- Regulation Licences
- Management Plans; and
- Interim Management Plans.

9.1 Section 43 Orders

Section 43 of the FRMA provides a power for the Minister to prohibit persons from engaging in a fishing activity of a specified class. Orders made under this section are published in the Government Gazette.

There are no specific rules for transfer, variation, cancellation, objection (although they are disallowable), consultation requirements or access fee structures provided for under a Section 43 Order fishery when participants in the fishery are listed in a Schedule to the Order. As a result, the level of security for fishermen is usually perceived as less than for other options. However, as with other subsidiary legislation under the FRMA, Section 43 Orders are disallowable in either house of the State Parliament

Section 43 Order managed fisheries are also relatively inflexible in terms of the Department being able to make urgently needed changes to the management of the fishery. Any minor change to the management of the fishery (such as a temporary area closure) would require Ministerial approval and an amendment to the Order.

9.2 Section 251 Exclusive Licences

Currently, there are no exclusive licences in operation. However, they are similar to Section 43 Orders in that they would be relatively inflexible and unsophisticated. The FRMA provides for the Minister to be able to vary and/or cancel Exclusive Licences, and the decision is not subject to the objections process. The Department does not advocate the use of a Section 251 Licence (or licences) for this fishery as they do not provide for an adequate range of management controls.

9.3 Regulation Licences

Management arrangements of this type are defined in detail in the FRMR. The power to issue a licence rests with the Executive Director. Regulation licences are relatively limited in the range of management controls that can be introduced. No statutory consultation is required if arrangements are to be revoked. The rules for objections relating to the issue or variation to a licence are contained within the FRMA.

Current Regulation licences include the Rock Lobster Pot licence (which allows the use of rock lobster pots in the Albany and Great Australian Bight areas of the State), the Oyster fishing licence, and the recently established aquatic eco-tourism operator and fishing tour operator's licences.

Regulation licences are similar to managed fishery licences, except that the fishery rules are defined in the Regulations and tend not to be as "adaptive" as managed fishery rules. Consultation requirements are not presently well defined for Regulation managed fisheries.

9.4 Managed Fisheries

The FRMA provides for the development of fishery management plans (effectively a set of fishery rules). Management plans can be established so that an appropriate amount of flexibility in the management of the fishery is achieved. Under such arrangements, the Executive Director (under delegated authority from the Minister) can be provided with the power to permit, or prohibit, fishing in certain areas at certain times if necessary.

Rules regarding objections, fee structures, gear usage and entitlement, transfers, variations, and cancellation of licences can be defined in the plan or are already defined in the FRMA. Management plans are therefore often perceived by fishermen as providing a greater level of security and proper process for the Department to follow. In addition, the ability to define offences against the plan as major or "standard" provisions tiers the penalty system to some extent. Generally, the penalties for contravening provisions under management plans are higher than they would be for offences under Regulation licences provided for in the FRMR.

Statutory consultation is required for the development, amendment and revocation of management plans.

9.5 Interim managed fisheries

Interim Management Plans are similar to management plans in terms of their flexibility and rules regarding transferability, variation, cancellation, objections and fee structure. However, Interim Management Plans have a defined end date and fewer consultation requirements in the developmental stages. Upon the expiry of an Interim Management Plan, the fishery can either cease, or new management arrangements can be adopted (such as a managed fishery).

In circumstances where a fishery is:

- of a new or developmental nature;
- is transitioning from management arrangements based on a mix of Orders and conditions; or
- the previous arrangements have been dubious or contentious;

it is usually considered that the most appropriate management arrangement is an Interim Management Plan. Moving the fishery into an interim management phase allows the management arrangements a period of time to “settle” without formalising the arrangements or access on a more perpetual basis.

SECTION 10 PROPOSED MANAGEMENT ARRANGEMENTS

10.1 Legislative Base

See Section 9 of this paper “Potential Management Options under the FRMA”.

Given this fishery has a dubious/contentious base; the Department considers it appropriate that an Interim Management Plan be developed for the fishery.

It is proposed that the Interim Management Plan for the fishery be in place for 3 years. This period of time will enable the management arrangements of the fishery to be adequately tested and “fine tuned”, and will also allow for any ongoing resource sharing issues to be properly identified and considered within the context of the Interim Management Plan.

Proposal 10.1.1 - That an Interim Management Plan be developed for the South West Beach Seine Fishery.

Proposal 10.1.2 - That the Interim Management Plan has an expiry date that is 3 years after the date of gazettal of the plan.

10.2 Fishery definition and prohibition

The area of the South West Beach Seine fishery is traditionally understood to encompass the area up 800 meters offshore between Point D’Entrecasteaux on the south coast of the State, and Tim’s Thicket south of Mandurah. It is proposed that the offshore boundary be defined to ensure clarity in the area of the fishery and that estuaries and any inland waters will be excluded from the area of the fishery. (Appendix B)

It is intended that exceptions to the netting prohibition in the area of the fishery be provided for:

1. People who hold a recreational net fishing licence who are fishing for a recreational purpose and recreational fishermen who are fishing with crab drop nets.
2. People operating under the authority of a West Coast Demersal Gillnet and Demersal Longline Managed Fishery Licence (for waters north of 33 degrees south).
3. People operating under the authority of a Joint Authority Southern Demersal Gillnet and Demersal Longline Managed Fishery Licence (for waters south of 33 degrees south).
4. People operating under the authority of a West Coast Purse Seine Managed Fishery Licence.
5. People operating under a South West Beach Seine Interim Managed Fishery Permit.
6. People operating under the authority of a South West Coast Salmon Managed Fishery Licence.

- Proposal 10.2.1 -** *That the South West Beach Seine Interim Managed Fishery be defined as fishing for finfish (except pilchards and salmon) by means of nets in the waters off the south west coast of the State between Point D'Entrecasteaux (34°50.500' S) and Tim's Thicket (32°39.083' S), and 800 metres seaward of the high water mark.*
- Proposal 10.2.2 -** *That it be prohibited for a person to fish using nets in the waters of the fishery unless that person is fishing in accordance with the Act:*
- a) For a recreational purpose.*
 - b) Under the authority of a Demersal Gillnet and Demersal Longline Managed Fishery Licence.*
 - c) Under the authority of a Purse Seine Managed Fishery Licence.*
 - d) Under the authority of a South West Beach Seine Fishery Interim Managed Fishery Permit.*
 - e) Under the authority of a South West Coast Salmon Managed Fishery Licence.*

10.3 Access Criteria

The criteria for access proposed at a meeting of Department staff and commercial fishermen on 23 September 2002 was that:

“Access should be granted to the holders of south west salmon authorisations or those people with a history of beach seine fishing in the area of the fishery over the last 5 years with a minimum (cumulative) catch of 3 tonnes of fish of any species during that time.”

In considering this proposal and providing the likely number of permits, the Department intends to apply the following parameters to the proposed criteria listed above:

1. Catch considered is that taken between 1 January 1997 to 31 December 2001 inclusive.
2. Salmon catch to be excluded from the total catch as this species is managed (and will continue to be managed) under the *South West Coast Salmon Managed Fishery Management Plan 1982*.
3. The area (blocks) assessed closely resembles the proposed area of the fishery, but there is some overlap with block 3215 and block 3315. Catches in block 3215 would not be considered when determining catch history.
4. A “unit” is a fishing boat, or a number of fishing boats that all share the same (excluding dingy designations) licensed fishing boat number base (LFB number). For example, B999, B999A, B999B and B999C are all part of the same fishing “unit”.
5. A “person” in the criteria below means a natural person, a partnership or an estate. In the case of a partnership/estate, any new beach seine permit would be issued to the partnership/estate as the holder of the fishing unit and not one permit for each member of the partnership/estate.

It is proposed that a person be issued a permit to fish in fishery if:

a) the person is (and was during the criteria period) the holder of a fishing unit that was used to take a cumulative total of at least 3 tonnes of fish during the criteria period and within the area of the proposed fishery; or

b) the person was the holder of a current South West Coast Salmon Managed Fishery licence during the criteria period (i.e. between 1 January 1997 to 31 December 2001), and is still the holder of that salmon managed fishery licence and the person is the holder of a fishing unit that:

1. is the nominated unit on the salmon managed fishery licence;
2. has beach seine fishing history in the area of the fishery; and
3. has not been used to gain access to the South West Beach Seine fishery via part a) above.

The real outcome of these proposed criteria is that a majority of fishing units with beach seine fishing history in the area of the fishery during the criteria period would gain access to the fishery. However, for most fishing units that have caught less than the required amount of fish during the criteria period, access to the fishery can still be achieved if the applicant held (and continues to hold) a current South West Coast Salmon Managed Fishery Licence.

Importantly, an applicant who holds a fishing unit that meets the catch criteria and a South West Coast Salmon Managed Fishery Licence would not be issued two permits (i.e. one for their fishing unit history and another for their south west salmon managed fishery licence).

Proposal 10.3.1 – That a person be granted a South West Beach Seine Interim Managed Fishery Permit if the person is the holder of a current fishing unit, the fishing boat licence/s of which were used to take a cumulative total of 3 tonnes of any finfish (other than fish taken under the authority of another licence) between 1 January 1997 and 31 December 2001 in the area of the fishery and the person held that fishing unit between 1 January 1997 and 31 December 2001.

Proposal 10.3.2 – That a person be granted a South West Beach Seine Interim Managed Fishery Permit if they are the holder of a current South West Coast Salmon Managed Fishery licence, and were the holder/s of that licence between 1 January 1997 and 31 December 2001 and they are the holder of a fishing unit that;

- *has beach seine fishing history in the area of the fishery during the criteria period;*
- *has not been used to gain access to the fishery under Management Proposal 10.3.1; and*
- *is the nominated boat on the South West Coast Salmon Managed Fishery Licence.*

10.4 Restrictions regarding the take of whitebait

There has been an ongoing concern by the Department regarding the take of whitebait in the area of the fishery. Whitebait are known to have a low fecundity and a limited distribution offshore and are therefore thought to be highly vulnerable to overfishing. Indeed, the report of the research conducted into whitebait between 1991 and 1994 concluded that stocks of whitebait were being sustained at that time, but any increase in fishing pressure could endanger stocks in future years (Fisheries Research Report 108).

Whitebait continues to be the principal species taken in the fishery by weight and value. To reduce the likelihood that whitebait fishing effort will increase substantially as a result of implementing management arrangements for this fishery, the maximum potential fishing effort for whitebait should be capped. This can be achieved using a number of management methods (see NCP assessment at Appendix C). However, the Department in this case proposes that access to whitebait be restricted to fishing units which can demonstrate a “substantial” catch history of whitebait. It is proposed that “substantial” be defined as the fishing unit having taken 20 tonnes or more of whitebait between 1 January 1985 and 31 December 1989.

To afford some protection to whitebait that travel offshore, it will also be proposed that whitebait only be taken from beach based fishing operations using beach seine gear.

Although whitebait is available to be taken between latitudes 33 degrees south and 32 degrees 40 minutes south, given the statistical recording system used by the Department it would be difficult to separate the catches that have been recorded as being taken between Tim’s Thicket and latitude 33 degrees south. In this case, it is proposed that only catches of whitebait taken south of latitude 33 degrees south will be considered.

Proposal 10.4.1 – That a person must not take whitebait in the waters of the fishery unless they are the nominated operator of a current South West Beach Seine Interim Managed Fishery Permit, and that permit is endorsed so that the nominated operator may take whitebait.

Proposal 10.4.2 – That for the purposes of Section 142(3) of the Act, the criteria to be satisfied before the Executive Director is to vary a permit to authorise the take of whitebait is that the person was the holder of a fishing unit, the fishing boat licences of which took a cumulative catch of at least 20 tonnes of whitebait in the area of the proposed fishery (but south of 33 degrees south latitude) between 1 January 1985 and 31 December 1989.

Proposal 10.4.3 – That it be prohibited for a permit holder to take whitebait using a net where the net is retrieved using a boat (i.e. whitebait may only be taken by fishermen hauling their nets on the beach).

10.5 Nominated Operators

Minor commercial fisheries such as salmon and beach seine fisheries in Western Australia have traditionally been managed as “owner operator” fisheries, meaning that the holder of the authorisation is the only person who can fish under the authority of that authorisation. However, it is now generally accepted that most fishing authorisations can be held by a body corporate or more than one person (i.e. a jointly owned licence). The requirement to list a nominated operator on an authorisation allows the Department to track who is actually fishing each licence in the fishery and reduces the compliance difficulties associated with determining who may fish a licence held by more than one person or a body corporate.

By allowing more than one nominated operator to be listed on an authorisation, the holder of the authorisation has increased flexibility in managing how the authorisation will be fished. The holder may choose to quickly change the first listed nominated operator to the second listed nominated operator due to the first listed person being ill, going on leave or any other matter.

Proposal 10.5.1 – A permit holder may specify the names of not more than two natural persons who may fish in the fishery under the authority of the permit. The first named person must be the owner, part owner or a director of the organisation that holds the licence.

Proposal 10.5.2 – That the first named nominated operator is the only person who can operate the permit (other than crew working in conjunction with the nominated operator), except when the holder of the permit provides notice in writing to the Senior Fisheries Officer at the Busselton district office that the second named nominated operator will instead be operating the licence, and the period for which they will be operating the licence.

Proposal 10.5.3 - The nomination of licence holders at the beginning of the year will not attract an additional administration fee, but if nominated operators are changed during the licensing year, the prescribed fee to vary the nominated operator on a permit will be charged.

10.6 Methods of Operation

Beach seine nets, ring nets and purse seine nets have reportedly been used in the area of the fishery for a number of years. The proposed gear restrictions listed below provide some limits as to the maximum length of net, maximum and minimum mesh sizes where appropriate, and also some restrictions regarding the hauling of nets.

There is no clear distinction between ring nets and purse seine nets, both having purse rings on the lead line. Similarly, the distinction between a haul net and a seine net can become complicated. Therefore, it is considered appropriate to describe the fishing activity that is allowed, and define the parameters of the net that may be used when undertaking each activity.

The Department of Fisheries recognises that powered hauling devices do not generally allow operators to work faster when operating nets in shallow water. Power hauling a seine net too fast in shallow water can cause the net to plough into the seabed or ride on the surface resulting in the escape of fish. However, the use of powered hauling devices can make the hauling of nets less physically demanding, and mitigates the risk of manual hauling injuries. The use of machinery would be subject to the usual Occupational Health and Safety safeguards, which are the responsibility of the boat and equipment owner and the operator.

Proposal 10.6.1 Beach seine netting:

The net must be hauled from the beach.

The net must have a maximum length not exceeding 500 metres

The net must have a stretched depth not exceeding 18 metres

The net must have a minimum mesh size of 7 millimetres.

Proposal 10.6.2 Ring netting and small purse seine netting:

May be by using a powered hauling device.

May be hauled from a boat.

Nets must have a maximum length of 300 metres.

Nets must have a stretched depth of less than or equal to 18 metres.

Nets must have a minimum mesh size of not less than 7 millimetres.

Proposal 10.6.3 If two or more permit holders are working together, the total length of net that may be used must not exceed the lengths specified in Proposals 6.1 and 6.2 (i.e. two permit holders working a beach seine net together cannot operate a total of 1000 metres of net).

10.7 Temporal/Spatial closures in the fishery

The proposed closed areas for commercial beach seine fishing listed below closely mirror current net fishing closures for both recreation and commercial fishermen in the proposed area of the fishery. Some of the areas north of Bunbury have been amended slightly so that fishing closures can be better identified from the beach by referring to vehicle access tracks, boat “ramps” and roads.

The current seasonal closures to netting in the Busselton and Dunsborough area and also at Peppermint Beach are described in Proposal 10.7.2. Please note that the current permanent closure for only part of Binningup Beach has been altered to a proposed permanent closure for all of Binningup Beach, and the northern boundary of the Dunsborough seasonal closure area has been shifted slightly to better align with prominent landmarks (the Old Dunsborough boat ramp and the pine trees located about 450 metres east of the intersection of Elmore Road and Geographe Bay Road).

Diagrams of all the proposed permanent and seasonal closures and a list of the coordinates at the vertices of each area are provided at Appendix D.

Proposal 10.7.1 ***A commercial fisherman must not fish using nets at any time in:***

- a) All waters within 400 metres of the high water mark off the beach generally known as Preston Beach between points 800 metres north and 800 metres south of the prolongation of Mitchell Road.***
- b) All waters within 400 metres of the high water mark at the beach generally known as Myalup Beach between points 200 metres north and 200 metres south of the prolongation of Myalup Road.***
- c) All the waters of the Indian Ocean within 800 metres of the high water mark off the beach generally known as Hungry Hollow Beach between points situated at the intersections of the westerly prolongations of the centre lines of Clifton Street and Beach Road with the high water mark.***
- d) All waters of the Indian Ocean within 400 metres of the high water mark at the beach generally known as Binningup Beach between the north western prolongation of the southern side of Burcham Street and the western prolongation of the centreline of the end of Valentine Road.***
- e) Busselton – All the waters of the Indian Ocean within 400 metres of the high water mark between the northern prolongation of the centreline of Dolphin Road and the north western prolongation of the easternmost groyne commencing to the west of the intersection of Layman Road and McCormack Street at Port Geographe, including the waters of Port Geographe Marina.***
- f) Busselton Jetty - All the waters of the Indian Ocean within 800 metres of the Busselton jetty.***

- g) All the waters of the Indian Ocean bounded by a line commencing at the centreline of the bridge over the mouth of the Yallingup Brook drawn due west 400 metres, then northerly in a straight line to a point 400 metres due west of the northern edge of Yallingup Beach, then east to that point, then generally southerly along the high water mark to the starting point.*
- h) All waters within an 800 metre radius from the centre of Canal Rocks.*
- i) All the waters of Cowaramup Bay enclosed by the high water mark and a line drawn from the high water mark on the westernmost point of Cowaramup Point to the high water mark on the southernmost point of the northern headland of Cowaramup Bay.*

Proposal 10.7.2 A commercial fisherman must not fish using nets during the period commencing 15 December and ending the next 15 February or during any weekend or public holiday in:

- a) In all the waters of the Indian Ocean off the beach generally known as Peppermint Grove Beach within 400 metres of the high water mark between the northern vehicle access track near Barndi Walk and the western prolongation of the centreline of Hardey Terrace.*
- b) Siesta Park - All the waters of the Indian Ocean within 400 metres of the high water mark between the northerly prolongation of the centerline of Dolphin Road and 1000 metres west of the Siesta Park Groyne.*
- c) Dunsborough - All the waters of the Indian Ocean within 400 metres of the high water mark between the Old Dunsborough boat ramp and the north eastern prolongation of a line drawn through the bases of the pine trees that are located approximately 450 metres east of the intersection of Elmore Road and Geographe Bay Road (i.e. the waters west and north of the “lined up” pine trees and less than 400 metres from shore are seasonally closed).*

10.8 Use of boats and vehicles

The Department does not control or regulate vehicle access to beaches in the area of the proposed fishery. Beach access is instead managed by a number of different local governments and authorities (depending on the location of the beach). However, Section 62(b) of the FRMA, provides for a management plan to:

“prohibit or regulate the use of any boat, vehicle or aircraft in the fishery or require the registration, marking or identification of boats, vehicles or aircraft, used in the fishery”.

The Department considers it appropriate that vehicles used in conjunction with a South West Beach Seine Interim Managed Fishery Permit be appropriately marked to ensure ready identification of these vehicles by the public and other authorities.

Proposal 10.8.1 *All vehicles used in conjunction with a South West Beach Seine Interim Managed Fishery Permit when being used on a beach in the area of the fishery must have the licensed fishing boat number of the vessel that is listed on the permit also displayed on the vehicle.*

Proposal 10.8.2 *Two or more licensed fishing boats may be used simultaneously if the two boats are working in conjunction (in this case, “in conjunction” means within 500 metres of each other).*

10.9 Transferability

Section 140 of the FRMA and Regulation 131 provide for the Executive Director to refuse the transfer an authorization or part of an entitlement on a number of grounds, including “on any other ground specified in a relevant management plan or prescribed in the regulations”.

The Department does not intend to include in the proposed Interim Management Plan any additional impediments to the transferability of South West Beach Seine Interim Managed Fishery permits at this time.

Proposal 10.9.1 *That the proposed South West Beach Seine Interim Managed Fishery Management Plan will not specify any additional grounds to refuse the transfer of a permit that is created under the authority of the Interim Management Plan.*

10.10 Fees

Other minor commercial fisheries in the State contribute towards the costs of management, research and compliance activities by paying an annual access fee that is dependent on:

1. the costs of management for the major cost recovered fisheries;
2. the gross values of production for the major cost recovered fisheries;
3. the consumer price index (CPI); and
4. the gross value of production (GVP) of the minor commercial fishery.

The method of calculating the annual access fee can be complex for relatively low value, multi species fisheries. As the proposed interim plan would expire three years after the date of gazettal of the plan, it may be appropriate to charge a set access fee for each year of the interim plan that would simplify and expedite the fee setting process.

In most years, the sale of whitebait provides about 60% of the total GVP of the fishery and other species make up the remaining 40%. However, under the proposed arrangements, only some permit holders would be permitted to take whitebait. It may be appropriate that these permit holders pay a higher access fee.

A simple method for calculating access fees could be that permit holders who are permitted to take whitebait collectively pay 80% of the total required contribution towards management for the fishery (i.e. 60% to account for all of the whitebait taken in the fishery and 20% for other species) and those permit holders who cannot take whitebait pay 20% of the total required contribution towards management for the fishery. The result is that the permit holder who may take whitebait pay (collectively) a total of \$10,500 each year, and those permit holders who cannot take whitebait pay (collectively) a total of \$2,600.

Proposal 10.10.1 *That there be a standard access fee for each type of permit (i.e. whitebait or non-whitebait) for the duration of the Interim Management Plan.*

Proposal 10.10.2 *That the total annual access fee for permits that do not allow the take of whitebait be \$2,600 divided by the number of such permits.*

Proposal 10.10.3 *That the annual access fee for permits that do allow the take of whitebait be \$10,500 divided by the number of such permits.*

10.11 Offences and Major Provisions

Section 75 of the FRMA provides for provisions of the plan to be designated as major provisions. Major provisions attract a higher general penalty (as defined in the FRMA) if contravened. Those provisions of higher consequence (if contravened) are defined as major provisions.

Proposal 10.11.1 *That for the purposes of Section 75 of the FRMA, the major provisions of the Interim Management Plan be those relating to:*

- *Fishing without a permit.*
- *Fishing in closed waters (including fishing out of season).*

10.12 Revocations and Amendments

If an Interim Management Plan is implemented for the fishery, the Department considers it appropriate to revoke or amend (so that it no longer applies to the commercial sector) any legislation that would effectively be made void by the arrangements.

Proposal 10.12.1 *Notice 444 of 1990 – Amended to exclude the commercial sector.*

Proposal 10.12.2 *Notice 416 of 1990 – Repealed.*

Proposal 10.12.3 *Notice 443 of 1990 – Amended to exclude the commercial sector.*

Proposal 10.12.4 *Notice 476 of 1991 – Amended to exclude permit holders in the South West Beach Seine fishery*

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- Policy for the Implementation of Ecologically Sustainable Development for Fisheries and Aquaculture Within WA*. Fisheries Management Paper No. 157 Fisheries Department of Western Australia, March 2002, Perth WA.
- The South West Beach Seine Fishery Draft Management Plan*. Fisheries Management Paper No. 50. Fisheries Department of Western Australia, February 1993, Perth WA.
- Western Australian Tourism Commission (2001). *Research Review on Domestic Visitor Activity*.

Appendix A: Ministerial media release - 6 October 1989



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MEDIA RELEASE
6 October 1989
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FREEZE ON NUMBER OF PROFESSIONAL FISHERMEN ALLOWED TO FISH FROM SOUTH WEST BEACHES

Fisheries Minister Gordon Hill today announced a freeze on the number of professional fishermen allowed to fish from South West beaches.

The freeze will cover beach seine fishing for species such as Australian salmon, Australian herring, whitebait and mullet.

Mr Hill said a review of the fishery would be undertaken and commercial and recreational fishermen would be consulted to work out new management guidelines.

"There are about 30 fishermen who appear to have a history of fishing in the area between Timms Thicket, south of Mandurah, and Windy Harbour," he said.

"It is important to first identify the professional fishermen who are dependent on fishing this area before any decision on future management of the fishery is made.

"Fishermen who have fished these beaches each year between 1 July 1986 and 30 June 1989 will be granted an interim endorsement to fish the area.

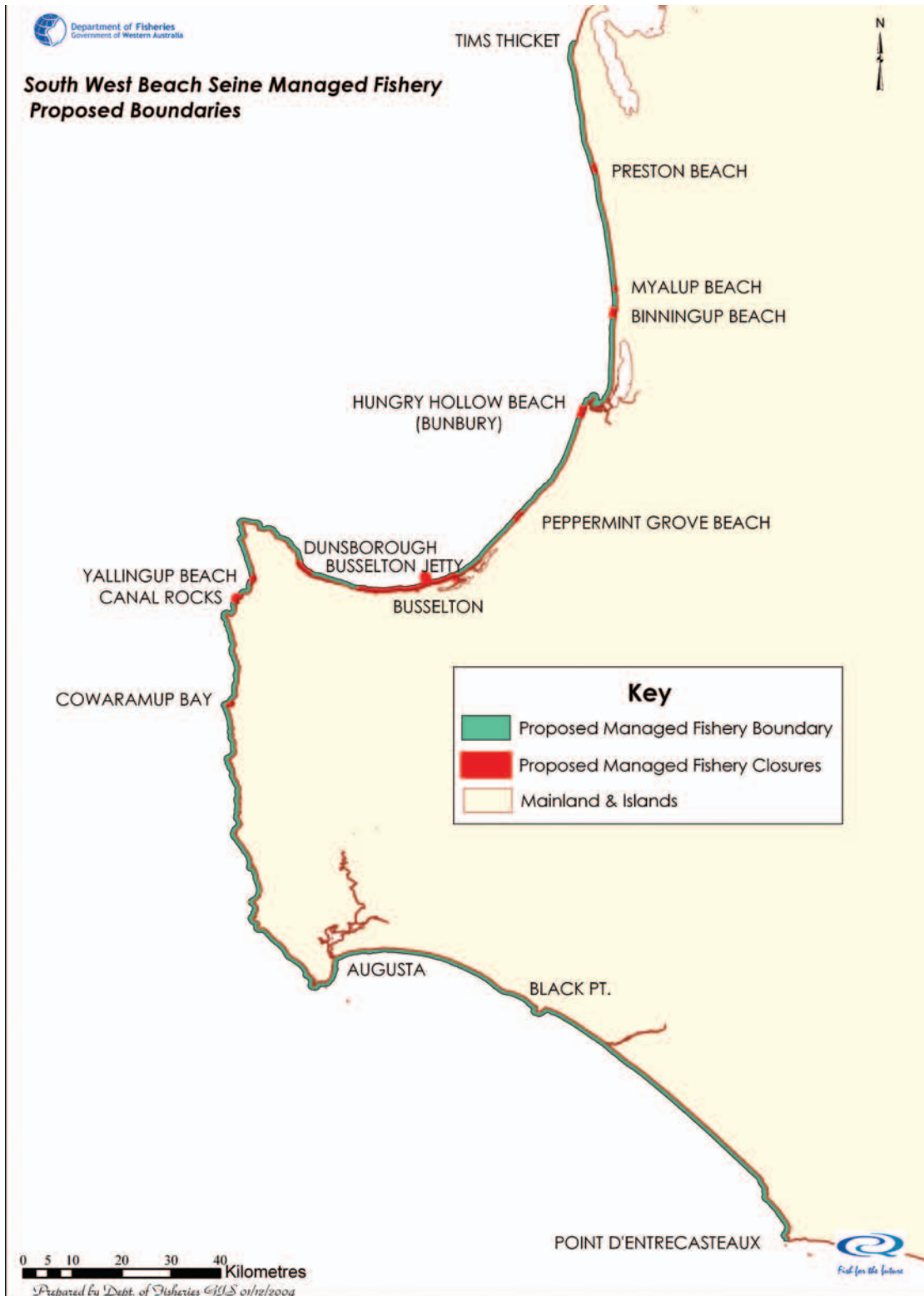
"Decisions on long-term access will be made after consultation with fishermen" Mr Hill said.

Interim endorsements or licences for the South West Salmon Fishery will not be transferable during the review, but consideration will be given to transfers within families.

Salmon licensees will be able to offer their licences for sale to the Fishing Industry Adjustment Scheme.

The freeze will not apply to existing managed fisheries like abalone diving, estuary fishing or gillnet fishing.

Appendix B Diagram - Area of the proposed fishery



Appendix C National Competition Policy Assessment of the proposed Management Arrangements for the South West Beach Seine Interim Managed Fishery

1.0 Legislative Base

Interim Management Plans and Management Plans are generally less restrictive to competition than other management options available under the *FRMA* (such as Section 43 Orders and Exclusive Licences). Management Plans and Interim Management Plans have better defined processes for the transfer of licences/permits. These processes can provide for egress/entry from/into the fishery, which is generally considered to encourage competition.

The existence of an expiry date for the Interim Management Plan is not considered to be anti-competitive.

2.0 Fishery definition and prohibition

Proposals in Section 10.2 restrict the nature of the fishing operation and the area in which permit holders may operate. However, the Department considers that the proposals are justified in that they increase the likelihood of resource sustainability by reducing potential effort, and by ensuring that fishing methods used in the fishery are unlikely to create sustainability issues (when considered in conjunction with other proposed management arrangements).

An alternative method for defining the fishery is to include the fishery as part of an existing managed fishery occurring in a similar area and using similar gear (e.g. – the South West Coast Salmon Managed Fishery). The clear benefit of this approach is that a Management Plan is already in place, and (in the case of the South West Coast Salmon Managed Fishery) already provides for the use of beach seine gear. A disadvantage is that there are a number of current beach seine fishermen who do not hold the relevant salmon Managed Fishery Licence but are likely to meet the access criteria for entry into the fishery. If the proposed management arrangements were included in (for example) the South West Coast Salmon Managed Fishery Management Plan, these later fishermen would need to be excluded from the fishery altogether, or be issued with South West Coast Salmon Managed Fishery Licences. The Department considers that the inclusion of beach seine fishing arrangements in the South West Coast Salmon Management Plan is not a viable alternative at this time.

An alternative method of defining the prohibition for the fishery is to define it in the negative – that is, define all the waters of the State that cannot be fished (and when), all the gear that cannot be used and all the species that cannot be taken, and then allow fishermen to fish wherever, whenever, however and for whatever is not prohibited. The disadvantage of this approach is that the resulting prohibition would be extremely complicated.

3.0 Access Criteria

The proposals at Section 10.3 effectively restrict entry to those who meet particular specified criteria. However, the proposals are considered appropriate because they increase the likelihood of resource sustainability by reducing potential fishing effort. [Refer to the National Competition Policy Legislation Review of the Western Australian *Fish Resources Management Act 1994* and Subsidiary Legislation (Fisheries WA, 1999).]

Alternative means of determining access can include (but are not limited to), proportional access based on catch history, annual ballots, permit “auctions”, or annual/variable term access to fish stocks based on a tender process. The advantages and disadvantages of each option are listed below.

Annual Ballots

Access to the fishery determined by annual ballots could be coordinated in a number of different ways. The ballot could include all community members who apply, all commercial fishermen in the State or all commercial fishermen who meet a certain criteria. In any case, the disadvantages of such a system are that it would be very costly to administer, especially if access rights were able to be transferred. In addition, it could result in inexperienced fishermen being granted an authority to fish. This is likely to create gear issues (i.e. new fishermen will require new gear, past fishermen will have gear which they cannot use). The Department does not consider this a viable alternative for this fishery.

Permit “auctions”

Access to the fishery is determined through a public auction. Quite simply, the highest bidder (or numbers of bidders) is provided with access to the fishery. The advantages of this are that the system is relatively simple to develop, the most efficient business is likely to succeed in the auction (as they should be able to afford a higher access fee “bid”) and Government revenue for the management of the fishery (from the proceeds of the auction) are likely to be maximised.

A disadvantage is that an auction system does not recognise the past efforts of existing fishermen in developing the fishery and establishing markets for the fishery. Individual operators are also likely to argue that such a system unfairly favours bigger fishing organisations and access rights to the fishery will end up being held by fewer people/organisations (i.e. an oligopoly/monopoly situation may arise)

Access by tender

Access is granted to the fishery through a tendering process. The term of access is fixed (say 3, 5 or 10 years) after which the process is repeated. Continued access during this term is likely to be made dependent on the fisherman/organisation meeting certain ongoing performance criteria. A clear advantage of this system is that (in theory) the most competitive organisation would be granted access rights to the fishery, and the resource would therefore be utilised most efficiently. However, disadvantages include the cost of developing and administering the tender process, and that close monitoring would be required to ensure that the successful organisation is complying with ongoing performance criteria. This is not considered suitable for relatively small, low value fisheries such as beach seine fisheries.

Proportional access

The level of access to the fishery could be based on the proportion of the total catch that each fisherman has taken using beach seine gear over a defined period. The level of access to the fishery would be controlled by managing the quantity of inputs (or effort) into the fishery such as the number of days that may be fished. Alternatively, the quantity of outputs from the fishery (i.e. the weight of fish than may be caught) can be used. An advantage of employing this method to determine access is that everyone who has put effort into the fishery (over a defined period) would be granted some part of the commercial fishery. A disadvantage is that the result would require unitisation of the fishery, and the effort/output of the fishery would need to be managed under a quota-like system. This can be very expensive to manage and enforce.

The Department is of the opinion that all of the alternative management options listed above would result in increased management and compliance costs. The proposed option is considered the most appropriate as it recognises the recorded catch history of those fishermen who have taken fish using beach seine gear, and it minimises the ongoing costs of managing access the fishery. In addition, previous Ministerial commitments preclude these other options from being further considered.

4.0 Restrictions regarding the take whitebait

These proposals restrict the take of a particular species of fish to those that meet the proposed catch criteria.

Other options for regulating the take of this species include:

Management by individual permit “quotas”

Each permit holder is permitted to catch a certain weight of whitebait each year. This management option would require the implementation of a detailed catch monitoring and verification system. “Quota” management can be extremely costly and complicated to manage/enforce and the costs in this case would exceed the benefits. There may also be issues around how the “quota” is set (and amended if necessary), and how the “quota” is distributed amongst permit holders (i.e. equally, or proportionally based on catch history).

Seasonal closures

All permit holders would be permitted to take whitebait, but only at specified times of the year (probably when the abundance of whitebait is at its highest). As whitebait catches are seasonal in nature, and can be largely influenced by environmental factors, the setting of an appropriate “whitebait season” in advance would be difficult and administratively costly if a “real time” approach was used. Ensuring fishermen comply with the season would also require additional compliance effort (and therefore cost).

“Rotating” annual whitebait permits

A specified number of permit holders would be permitted to take whitebait each year. Every permit holder in the fishery would be given an opportunity to take whitebait over a period of a number of years. The order of “whitebait access” would be determined through a “once-off” ballot involving all permit holders in the fishery. This option would require ongoing administrative involvement in determining “whitebait access”, and can be complicated by permit holders wishing to relinquish their right to take whitebait in any one year.

Whitebait “trigger limits”

All permit holders may take whitebait, but when a certain quantity of whitebait has been taken during a licensing period, no more whitebait may be taken by permit holders in the fishery for the remainder of that period. This option has similar catch measurement, catch verification and trigger-point setting issues as the quota option listed above. Trigger limits can also result in issues regarding continuity of supply.

All of the alternative management options listed above would result in increased management, research and compliance costs. The proposed option is considered the most appropriate as it recognises the recorded catch history of those fishermen who have taken whitebait, and it minimises the ongoing costs of managing the whitebait resource.

5.0 Nominated Operators

These proposals restrict the practical operation of a permit to those who are listed as nominated operators on the permit. However, permit holders may apply to change a nominated operator at any time during the season (upon the payment of an application fee). This proposal is considered justified on the grounds that it minimises compliance costs by ensuring fisheries officers know who is operating a permit, and it allows permit holders to arrange for another person fish the permit on their behalf.

6.0 Methods of Operation

Proposals 6.1 and 6.2 restrict the gear that may be used in the fishing operation. The proposals are justified in that they increase the likelihood of resource sustainability by reducing potential effort, and by ensuring that fishing methods used in the fishery are unlikely to create sustainability issues.

7.0 Temporal/Spatial closures in the fishery.

This proposal is considered to be anti-competitive in that it may not allow operators to work areas of the fishery where they could work more efficiently (i.e. closer to ports and boat ramps). However, the Department considers that the proposal is justified on the grounds that it is likely to minimize conflict between the recreational sector and other user groups.

8.0 Use of boats and vehicles

The establishment of rules regarding the use of boats and vehicles in the fishery is not considered to be anti-competitive. The requirement to mark vehicles being used in the fishery allows the identification of a legitimate fishing operation by compliance officers and members of the public.

9.0 Transferability

This proposal does not restrict competition.

10.0 Fees

The proposed method for setting access fees for the fishery does not restrict competition.

11.0 Offences and Major Provisions

The identification of clauses in the proposed interim plan that are major provisions does not restrict competition.

12.0 Revocations and Amendments.

The amendment or revocation of Orders that are made obsolete by the introduction of an Interim Management Plan for the fishery does not restrict competition.

Appendix D Diagrams of proposed permanent and temporary closures

Plate 1 Preston Beach

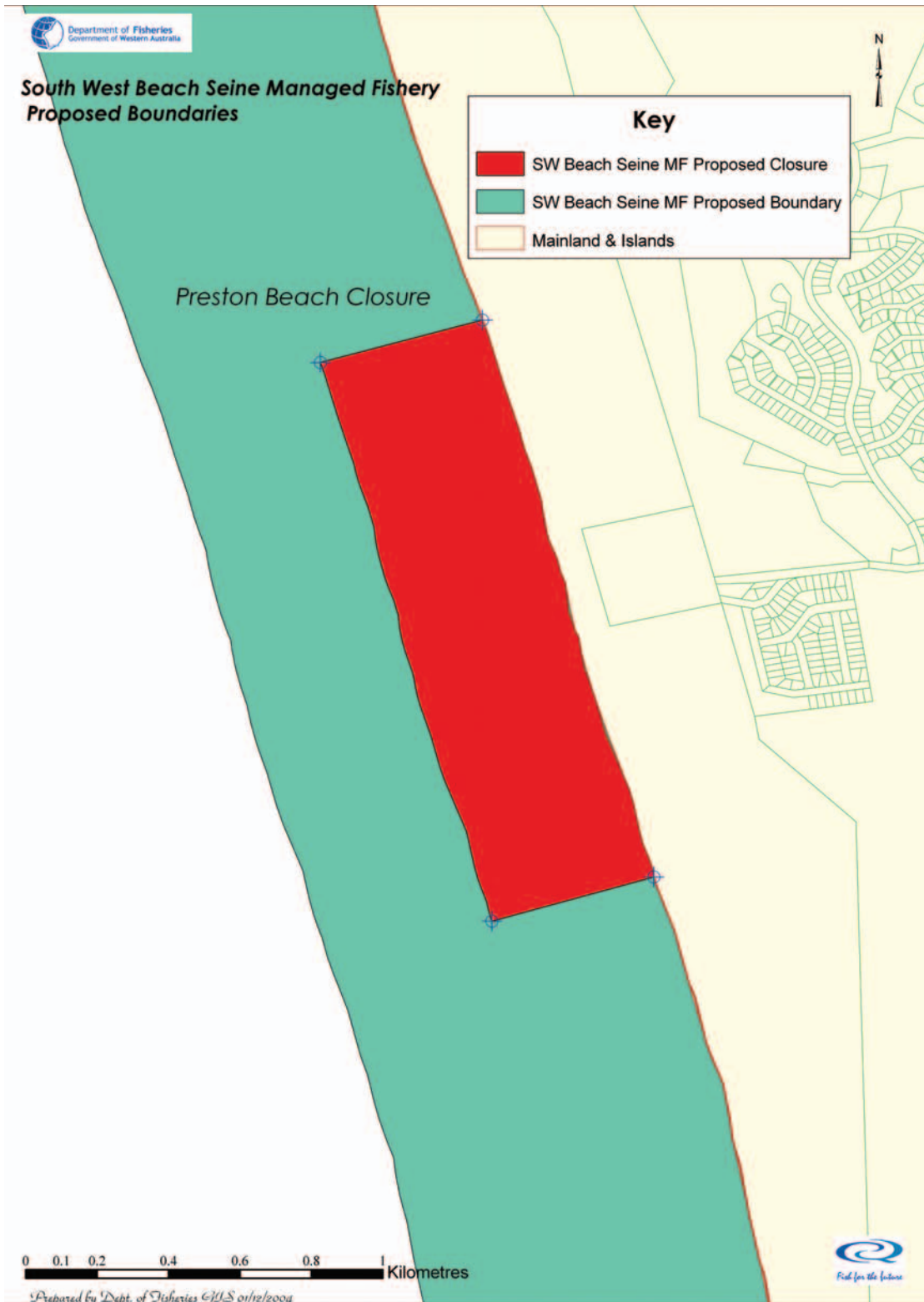


Plate 2 Myalup Beach

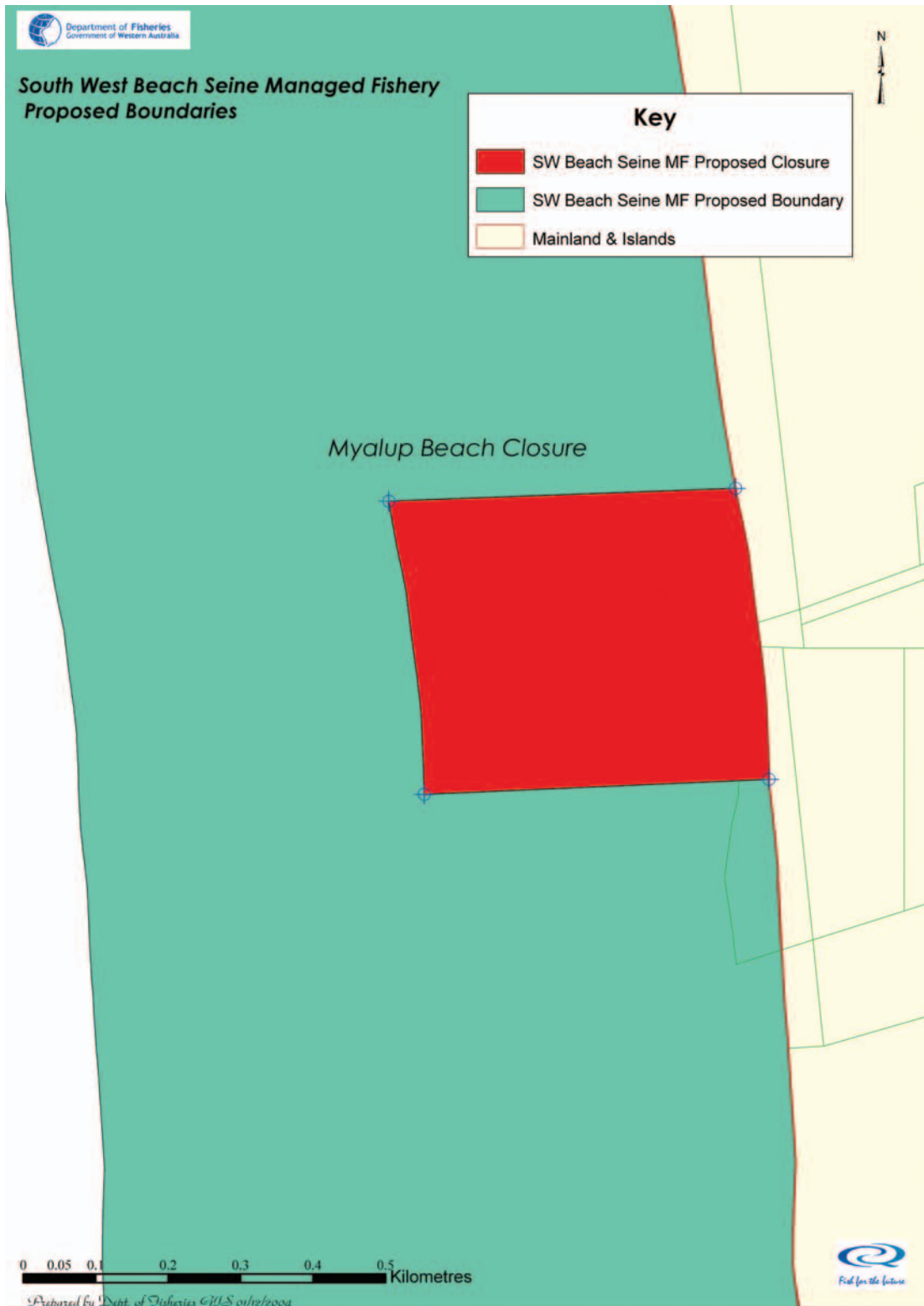


Plate 3 Binningup Beach

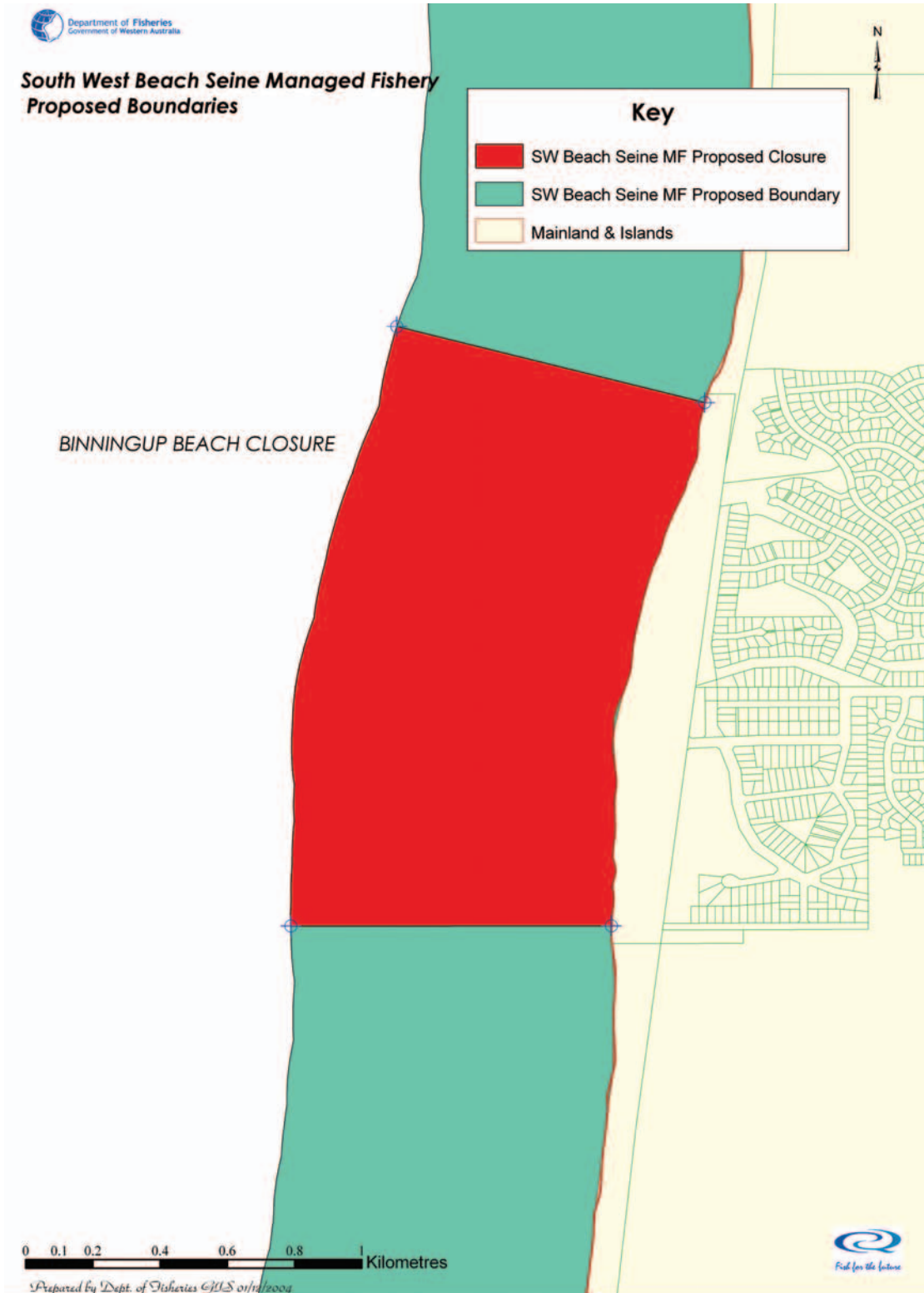


Plate 4 Hungry Hollow Beach

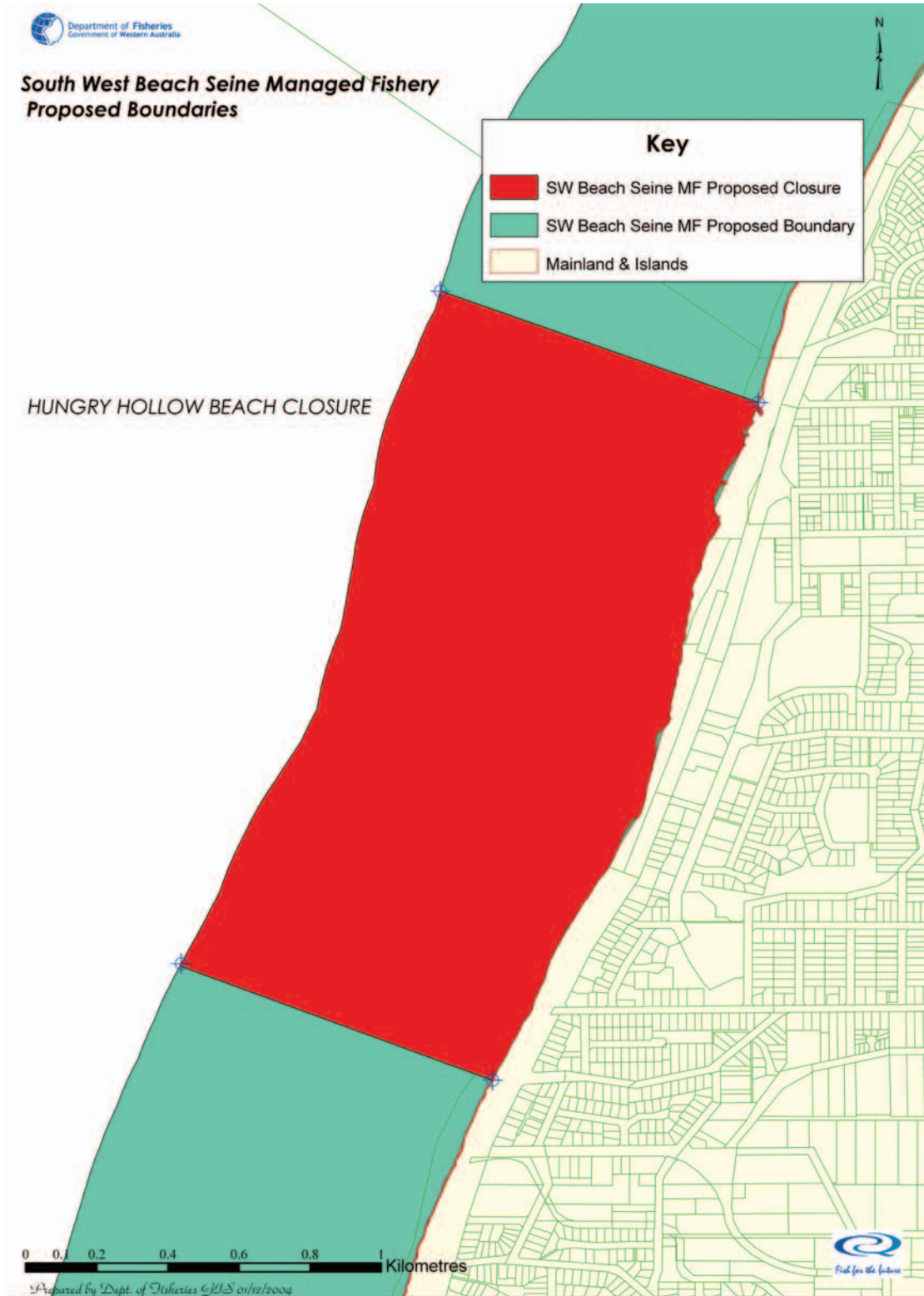


Plate 5 Peppermint Grove Beach

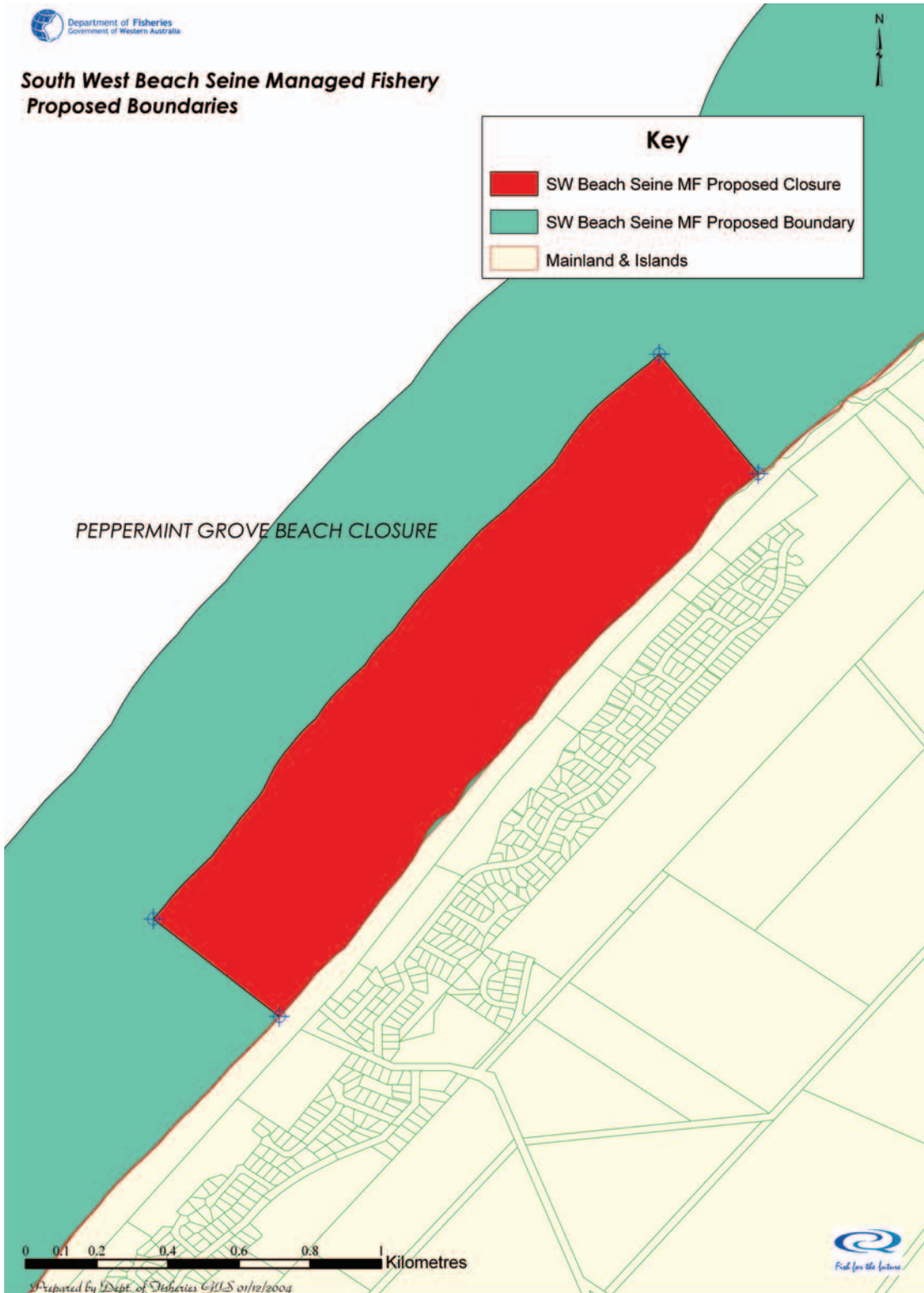


Plate 6

Busselton

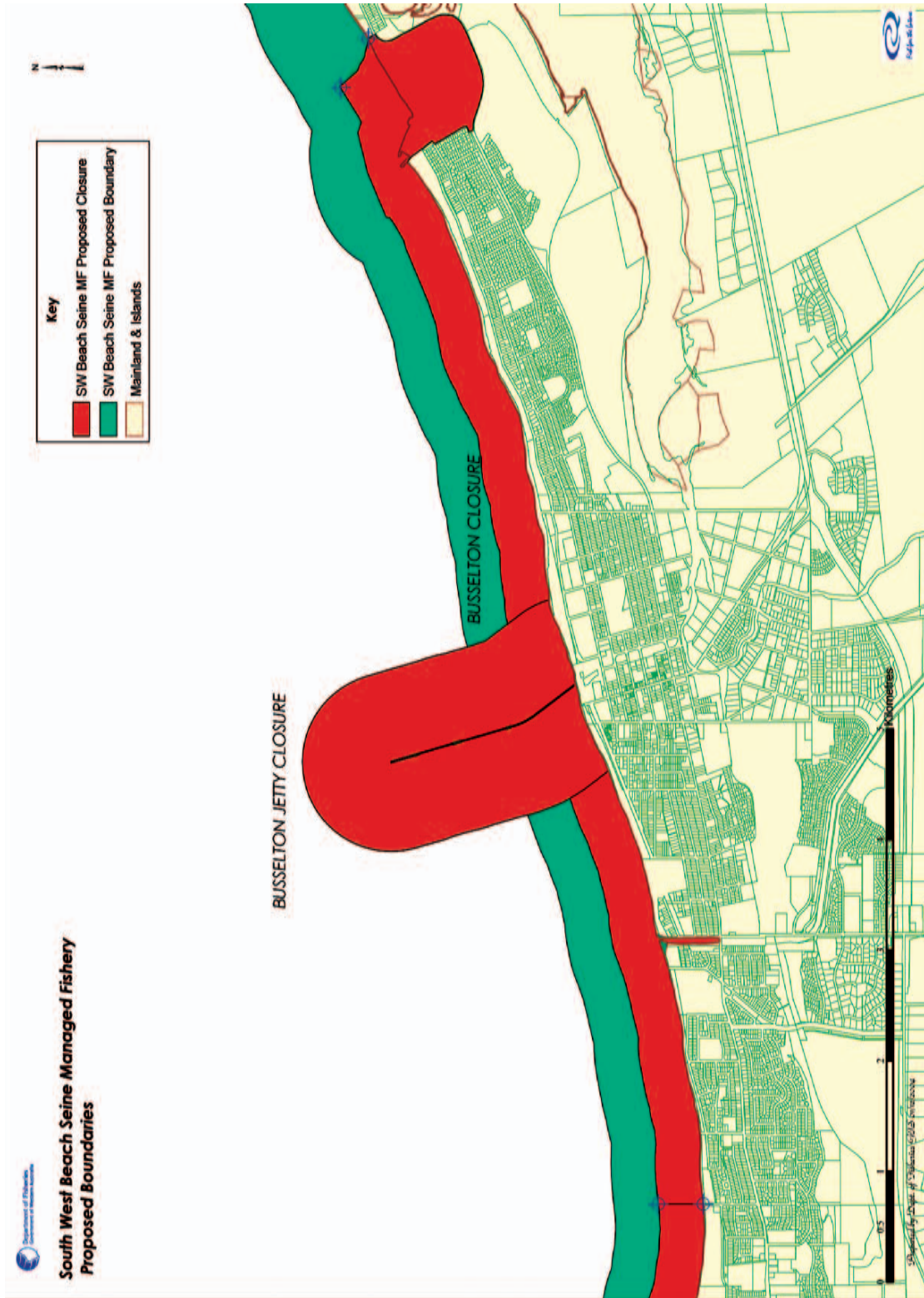


Plate 7 Dunsborough

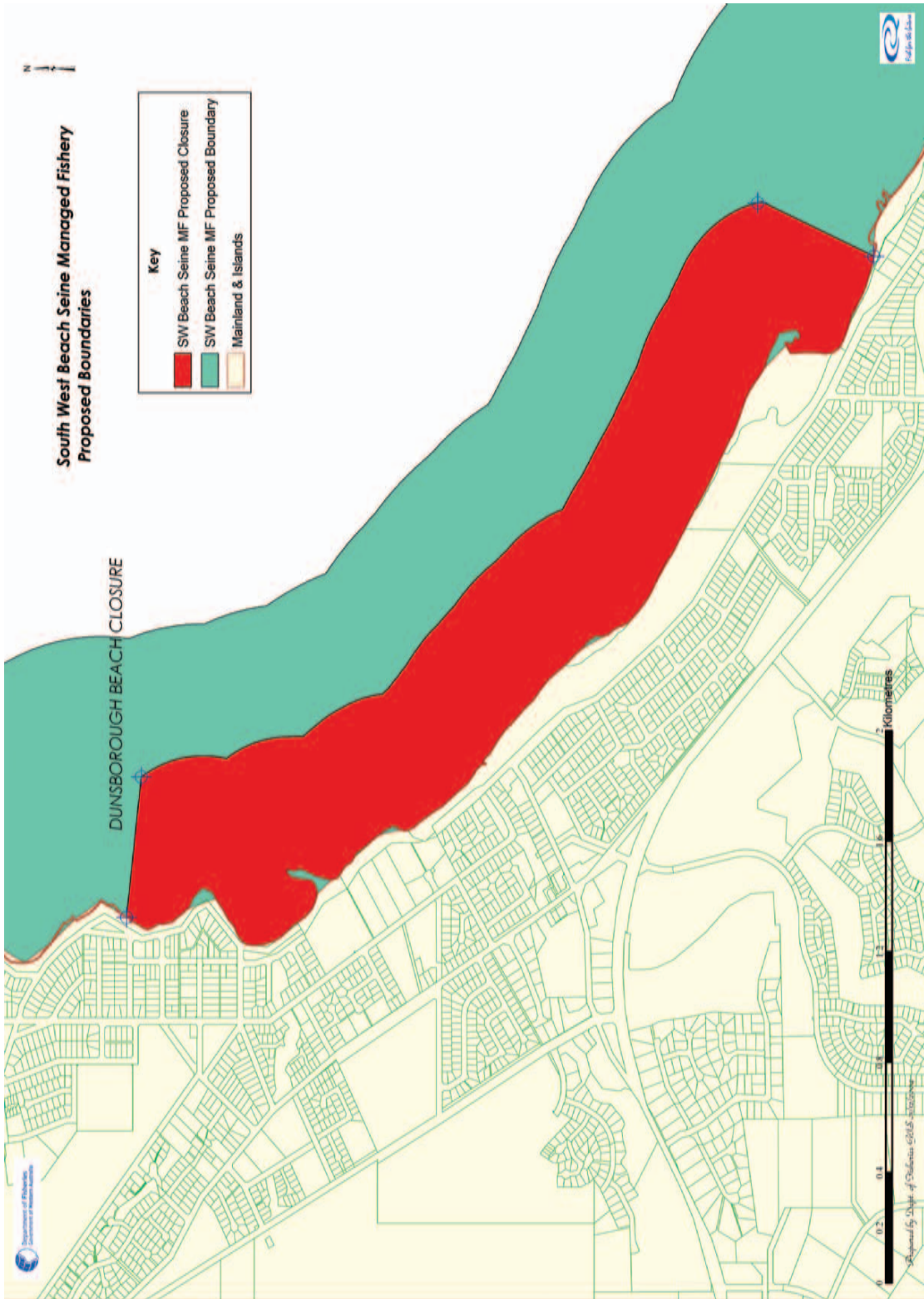


Plate 8

Siesta Park

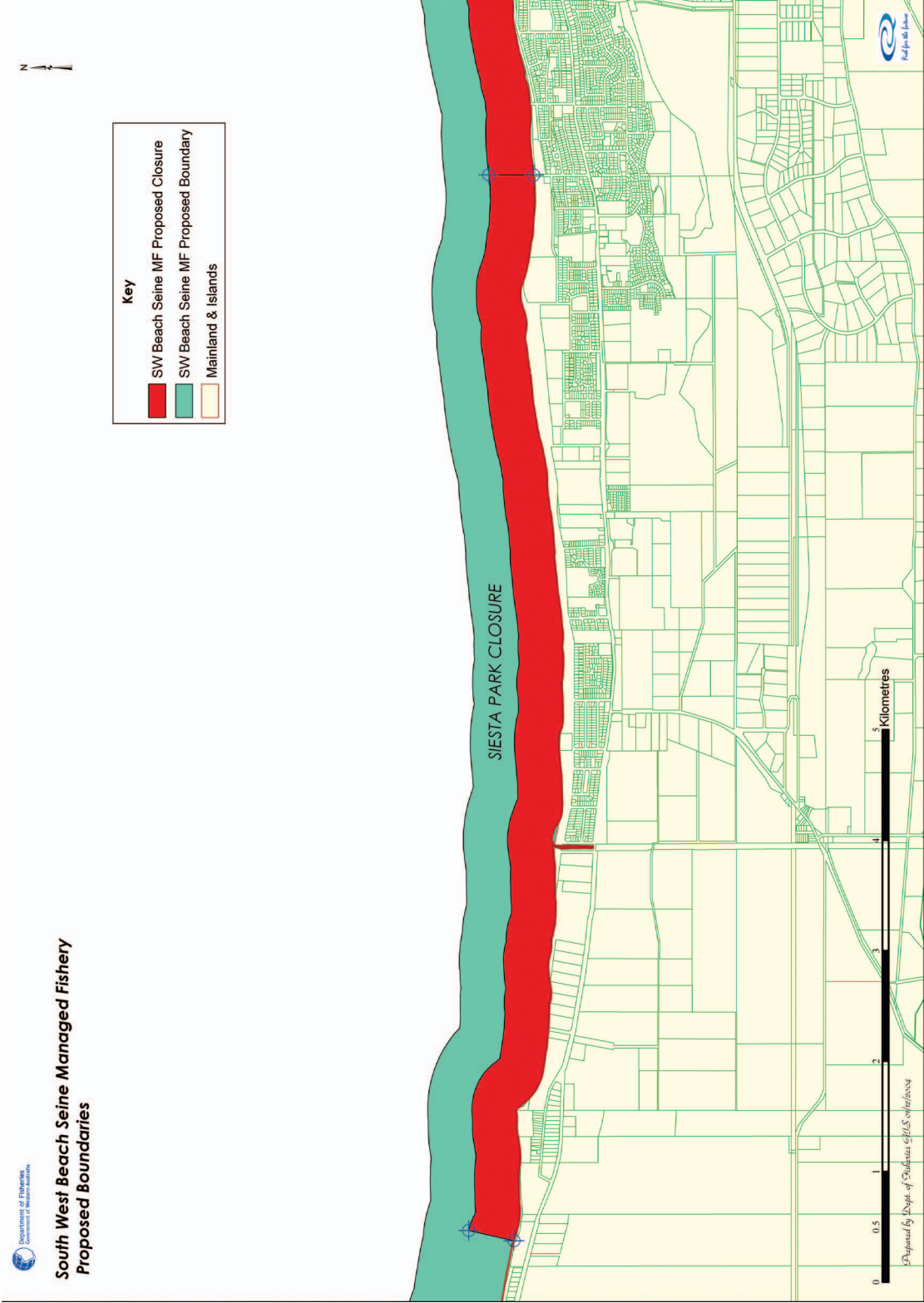


Plate 9 Yallingup Beach

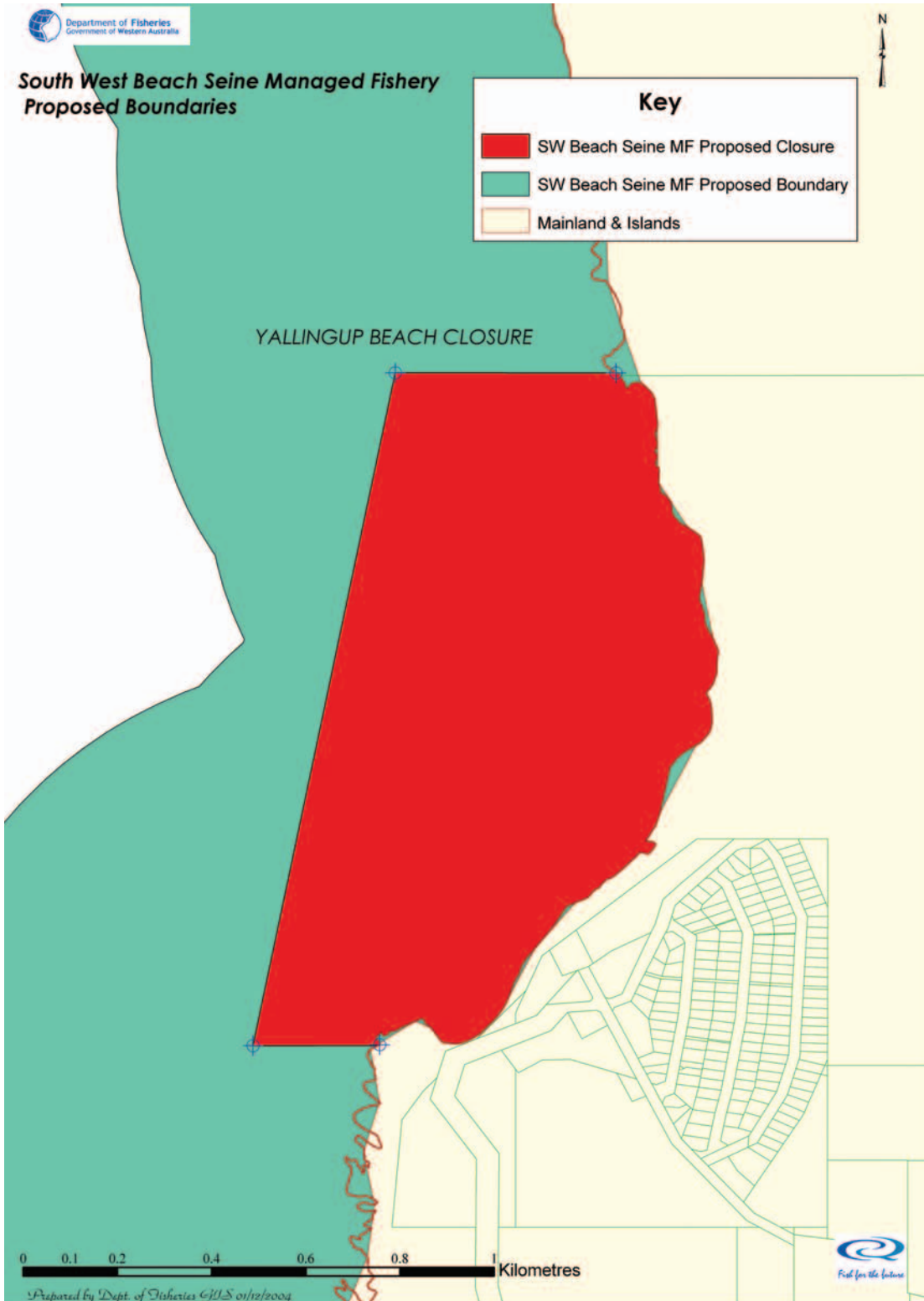


Plate 10 Cowaramup Bay

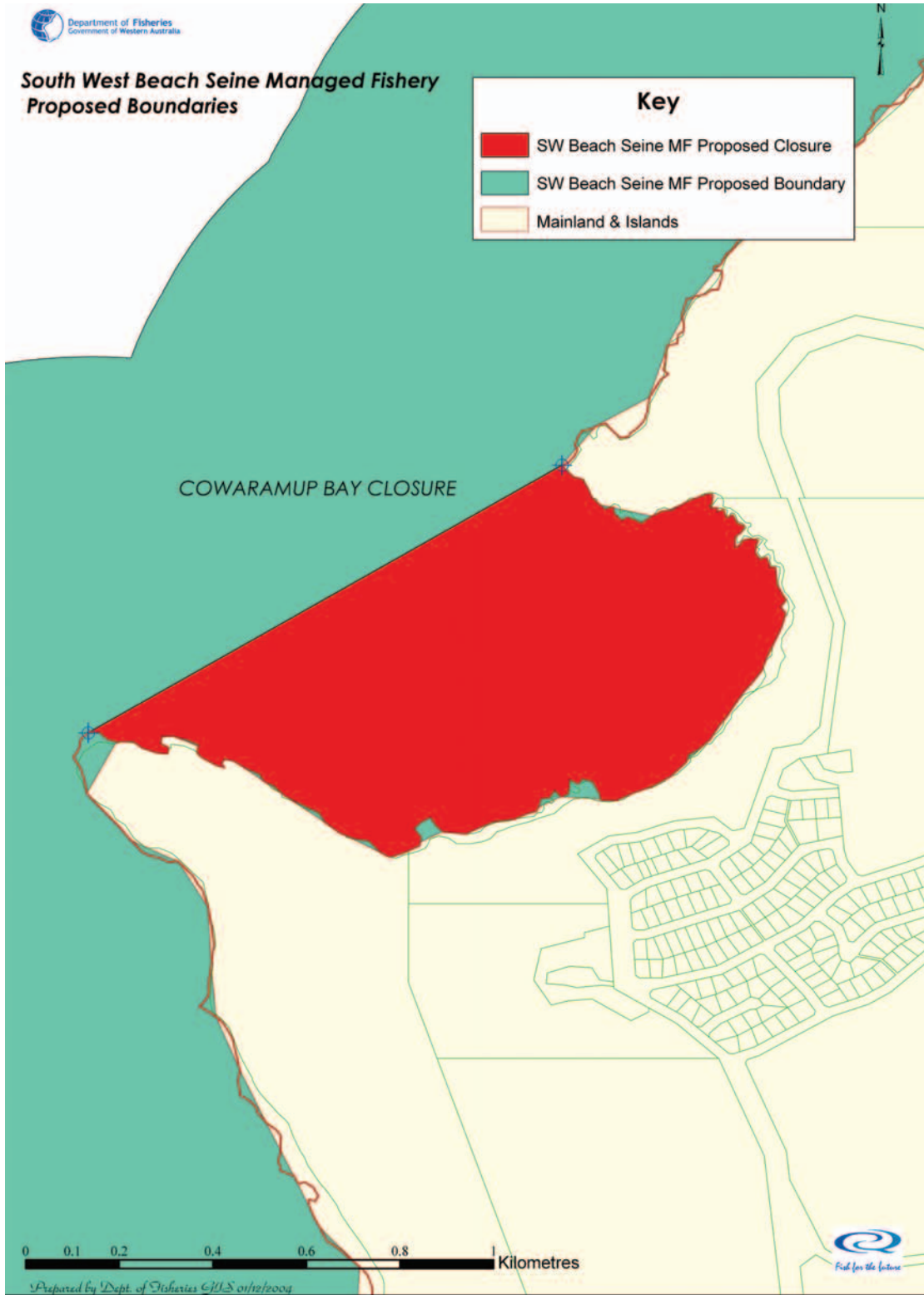


Plate 11 Canal Rocks

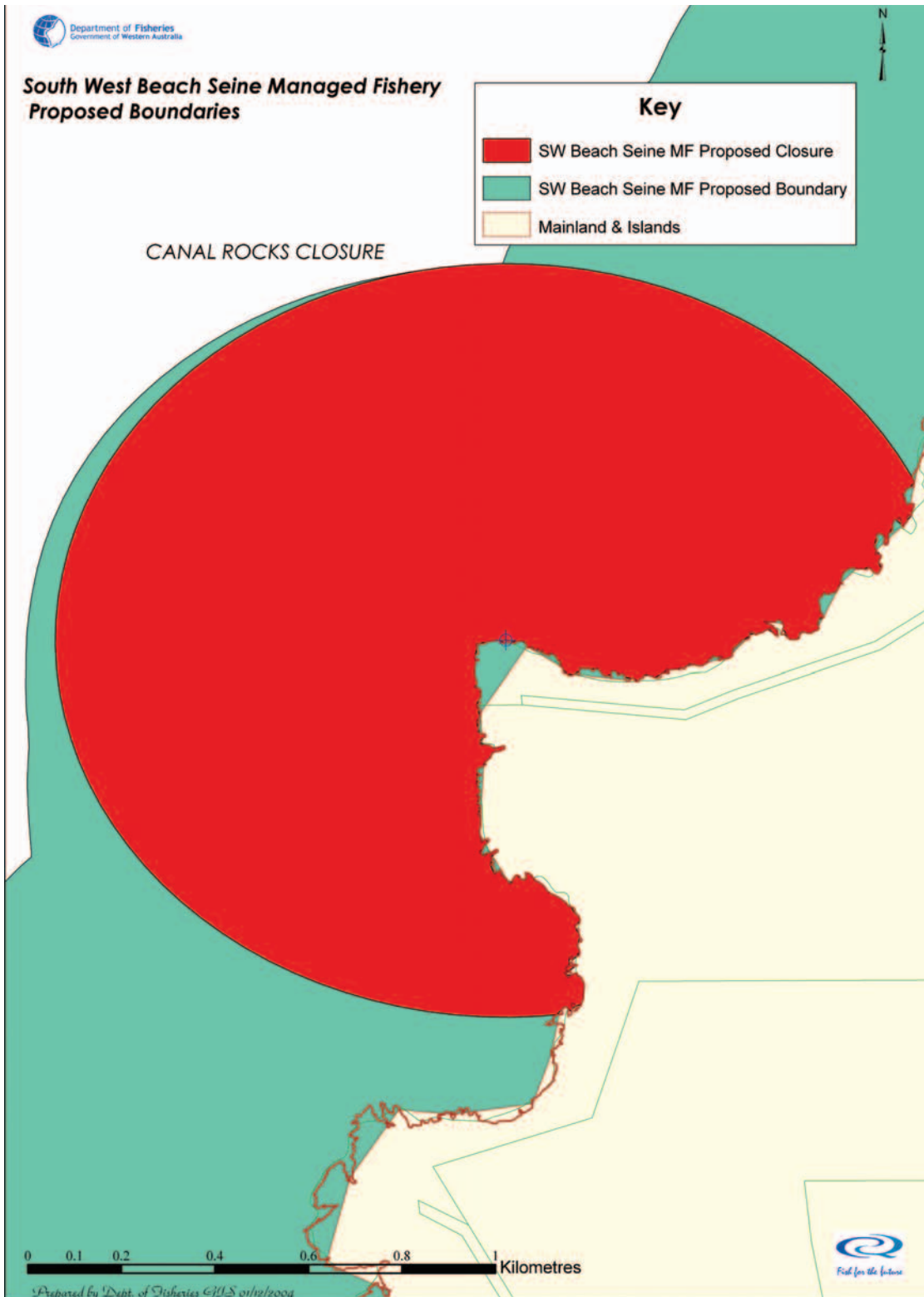


Plate 12 Description of proposed permanent and temporary closures

Description	Latitude	Longitude
Preston Beach	32° 52.561' South	115° 38.807' East
	32° 52.625' South	115° 38.562' East
	32° 53.470' South	115° 38.821' East
	32° 53.403' South	115° 39.066' East
Myalup Beach	33° 6.113' South	115° 41.217' East
	33° 6.123' South	115° 40.959' East
	33° 6.341' South	115° 40.985' East
	33° 6.329' South	115° 41.242' East
Binningup Beach	33° 9.295' South	115° 41.112' East
	33° 9.295' South	115° 40.597' East
	33° 8.332' South	115° 40.768' East
	33° 8.454' South	115° 41.262' East
Hungry Hollow Beach	33° 20.294' South	115° 37.465' East
	33° 20.117' South	115° 36.993' East
	33° 19.096' South	115° 37.386' East
	33° 19.265' South	115° 37.868' East
Peppermint Grove Beach	33° 30.844' South	115° 30.951' East
	33° 30.662' South	115° 30.801' East
	33° 31.520' South	115° 30.033' East
	33° 31.668' South	115° 30.224' East
Busselton	33° 37.634' South	115° 23.833' East
	33° 37.498' South	115° 23.593' East
	33° 39.051' South	115° 18.142' East
	33° 39.270' South	115° 18.142' East
Dunsborough	33° 36.079' South	115° 6.340' East
	33° 36.108' South	115° 6.615' East
	33° 37.312' South	115° 7.737' East
	33° 37.539' South	115° 7.633' East
Siesta Park	33° 39.174' South	115° 12.932' East
	33° 38.953' South	115° 12.982' East
	33° 39.051' South	115° 18.142' East
	33° 39.270' South	115° 18.142' East
Yallingup Beach	33° 38.428' South	115° 1.323' East
	33° 37.658' South	115° 1.594' East
	33° 37.658' South	115° 1.341' East
	33° 38.429' South	115° 1.178' East
Cowaramup Bay	33° 51.803' South	114° 58.510' East
	33° 51.495' South	114° 59.056' East
Canal Rocks	33° 40.161' South	114° 59.717' East

FISHERIES MANAGEMENT PAPERS

- No. 1** The Report of the Southern Western Australian Shark Working Group. Chairman P. Millington (1986)
- No. 2** The Report of the Fish Farming Legislative Review Committee. Chairman P. Rogers (1986)
- No. 3** Management Measures for the Shark Bay Snapper 1987 Season. P. Millington (1986)
- No. 4** The Esperance Rock Lobster Working Group. Chairman A. Pallot (1986).
- No. 5** The Windy Harbour - Augusta Rock Lobster Working Group. Interim Report by the Chairman A. Pallot (1986)
- No. 6** The King George Sound Purse Seine Fishery Working Group. Chairman R. Brown (1986)
- No. 7** Management Measures for the Cockburn Sound Mussel Fishery. H. Brayford (1986)
- No. 8** Report of the Rock Lobster Industry Advisory meeting of 27 January 1987. Chairman B. Bowen (1987)
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- No. 12** Report of the Rock Lobster Industry Advisory Committee to the Hon Minister for Fisheries 24 September 1987. (1987)
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- No. 16** The South West Trawl Fishery Draft Management Plan. P. Millington (1988).
- No. 17** The final report of the pearling industry review committee. F.J. Malone, D.A. Hancock, B. Jeffriess (1988)
- No. 18** Policy for Freshwater Aquaculture in Western Australia. (1988)
- No. 19** Sport Fishing for Marron in Western Australia - Management for the Future. (1988)
- No. 20** The Offshore Constitutional Settlement, Western Australia 1988.
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- No. 38** The economic impact of recreational fishing in Western Australia. R.K. Lindner, P.B. McLeod (1991)
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- No. 41** The future for Recreational Fishing - The Final Report of the Recreational Fishing Advisory Committee. Recreational Fishing Advisory Committee (1991)
- No. 42** Appendix to the final report of the Recreational Fishing Advisory Committee. (1991)
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- No. 45** Draft Management Plan, Kimberley Prawn Fishery. (1991)
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- No. 47** Long term management measures for the Cockburn Sound restricted entry fishery. Summary of submissions and final recommendations for management. P. Millington (1992)
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- No. 49** Management plan, Kimberley prawn fishery. (1992)
- No. 50** Draft management plan, South West beach seine fishery. D.A. Hall (1993)
- No. 51** The west coast shark fishery, draft management plan. D.A. Hall (1993)
- No. 52** Review of bag and size limit proposals for Western Australian recreational fishers. F.B. Prokop (May 1993)

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- No. 97** (*in press*)
- No. 98** A Pricing Policy for Fisheries Agencies - Standing Committee on Fisheries and Aquaculture Management Committee. P Millington (March 1997)
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- No. 105** Plan for the Management of the Houtman Abrolhos Fish Habitat Protection Area (draft). Prepared by the Abrolhos Islands Management Advisory Committee in conjunction with Fisheries Western Australia (October 1997)
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- No. 125** Changes to Offshore Constitutional Settlement Arrangements, North West Slope Trawl Fishery and Western Deepwater Trawl Fishery. A discussion paper by Fiona Crowe and Jane Borg (May 1999)[not published]
- No. 126** The South Coast Estuarine Fishery. A discussion paper by Rod Pearn and Tony Cappelluti. (May 1999)
- No. 127** The Translocation of Barramundi. A discussion paper by Makaira Pty Ltd.[July 1999]
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- No. 129** Review of the Western Australian Pilchard Fishery 12 - 16 April 1999. Prepared by K.L. Cochrane, Fisheries Resource Division, Food and Agriculture Division of the United Nations (November 1999)
- No. 130** Developing New Fisheries in Western Australia. A guide to applicants for developing fisheries Compiled by Lucy Halmarick (November 1999)
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- No. 142** Fisheries Environmental Management Plan for the Gascoyne Region (June 2002)
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- No. 144** The Translocation of Brown Trout (*Salmo trutta*) and Rainbow Trout (*Oncorhynchus mykiss*) into and within Western Australia. Prepared by Jaqueline Chappell, contributions from Simon Hambleton, Dr Howard Gill, Dr David Morgan and Dr Noel Morrissy. (*not published, superseded by MP 156*)
- No. 145** The Aquaculture of non-endemic species in Western Australia - Silver Perch (*Bidyanus bidyanus*). As amended October 2000. Tina Thorne. This replaces Fisheries Management Paper No. 107.
- No. 146** Sustainable Tourism Plan for the Houtman Abrolhos Islands (February 2001)
- No. 147** Draft Bycatch Action Plan for the Shark Bay Prawn Managed Fishery (Full Report) (April 2002)
- No. 148** Draft Bycatch Action Plan for the Shark Bay Prawn Managed Fishery (Summary Report) (April 2002)
- No. 149** Final Plan of Management for the Lancelin Island Lagoon Fish Habitat Protection Area (March 2001)
- No. 150** Draft Plan of Management for the Cottesloe Reef Proposed Fish Habitat Protection Area (April 2001)

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- No. 165** Report to the Minister for Agriculture, Forestry and Fisheries by the Integrated Fisheries Management Review Committee (November 2002)
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- No. 176** Fish Stock and Fishery Enhancement in Western Australia - a summary report. By Jane Borg (February 2004)
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- No. 179** A Draft Policy for the Translocation of Brown Trout (*Salmo trutta*) and Rainbow Trout (*Oncorhynchus mykiss*) into and within Western Australia for the Purposes of Recreational Stocking, Domestic Stocking and Commercial and Non-Commercial Aquaculture (August 2004)
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- No. 183** Final Report of the Fisheries Statutory Management Authority Advisory Committee. Published by the Department of Fisheries (*in press*)
- No. 184** South West Beach Seine Management Discussion Paper (January 2005)
- No. 185** Plan of Management for the Point Quobba Fish Habitat Protection Area (July 2004)
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- No. 187** Proposals for community discussion on the future management of pink snapper fishing in Cockburn Sound and surrounding waters. (*in press*).