Draft Management Plan
for the
Mackerel Managed Fishery

August 2011

Fisheries Management Paper No. 251

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1.0 OPPORTUNITY TO COMMENT

INTENTION TO DETERMINE A MANAGEMENT PLAN FOR THE MACKEREL MANAGED FISHERY:
DRAFT PLAN OPEN FOR PUBLIC COMMENT

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 19 August 2011 stating that he intends to determine a Management Plan for the Mackerel Managed Fishery and invites interested persons to comment on the Draft Plan.

A copy of the Draft Management Plan may be obtained from the Head Office of the Department of Fisheries, 3rd Floor, The Atrium, 168 St Georges Terrace, Perth or the Department of Fisheries website, www.fish.wa.gov.au.

Licensees are strongly encouraged to provide a written submission on the Draft Management Plan and representations will be accepted until 4.30 pm, Friday 30 September 2011.

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

Minister for Fisheries
Draft Mackerel Management Plan
c/- Chief Executive Officer
Department of Fisheries
3rd Floor, The Atrium,
168 St Georges Terrace, Perth

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

- A new clause allowing the surrender of licences and reallocation of usual entitlement.
- A new clause allowing a new licence to be created if the minimum unit holding is obtained.
- The minimum unit holding requirements for Area 1 will remain at 5% (218 units) of the TACC for ‘primary’ licence holders and 10% (435 units) of the TACC for ‘secondary’ licence holders.
- The minimum unit holding requirements for ‘primary’ and ‘secondary’ licence holders in Areas 2 and 3 will be standardised at 5% (153 units) of the TACC for all Area 2 licensees and 5% (86 units) of the TACC for all Area 3 licensees.
- Landing nominations have been amended to accommodate trips of less than four hours in duration.
- A new clause prohibiting the selling, purchasing or dealing of mackerel unless taken in accordance with the Plan.
• A new clause prohibiting having mackerel on board a licensed fishing boat, unless it is an authorised boat.

• The clause requiring research logbooks to be completed and submitted to the Department has been removed – this is a statutory requirement under section 64 of the Act.

• Wyndham and Derby have been added to the Plan as port areas.

• A new clause requiring licensees to complete and sign CDRs and provide notification prior to leaving WA waters.

• A new clause has been added to ensure that no fish other than mackerel are stored or transported on a licensed fishing boat whilst fishing in accordance with a Mackerel Fishery Licence, unless the boat is operating under the authority of another licence at the time.

• The landing of broad-barred mackerel that has been filleted with skin and scales left on will be permitted.

• Clauses relating to failure to nominate to enter a fishery, failure to nominate to transit closed waters, failure to carry a copy of the approved directions to be kept on board the boat, and failure to nominate to enter sleep mode, have been removed as they are no longer relevant to management/compliance requirements.

• A new subclause within the nomination component of the Plan has been included requiring licensees to indicate the Managed Fishing Licence (MFL) under which fishing will be carried out during each fishing trip.

• A new clause requiring the master to complete a ‘nil’ CDR following the conclusion of fishing in the waters of the fishery where no mackerel are landed.

• A new clause requiring the master of an authorised boat to return the CDR book, once completed, to the holder of the licence in respect of which the CDR book has been issued (CDR’s will be issued in respect of each MFL).

Next Steps

1. The Department 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 the Minister considers it appropriate to do so;

2. The Final Plan will be published in the Government Gazette;

3. Existing Mackerel Permit Holders in Western Australia will be written to and advised of the process to apply for a Mackerel Managed Fishery Licence;

4. New Licences will be issued in accordance with the new Plan;

5. The existing Interim Plan will cease on 31 December 2011; and

6. The new Plan will come into effect on 1 January 2012.
After reading the Draft Plan, if you have any questions please call Shirree Blazeski on (08) 9482 7327 or Clinton Syers on (08) 9482 7265.

Yours sincerely

Shirree Blazeski

FISHERIES MANAGEMENT OFFICER
2.0 DRAFT MACKEREL MANAGED FISHERY

Fish Resources Management Act 1994

MACKEREL MANAGED FISHERY MANAGEMENT PLAN 2011

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Mackerel Managed Fishery Management Plan 2011

FD 431/09 [942]

Made by the Minister under section 54.

PART 1 - PRELIMINARY

1. Citation

This plan is the Mackerel Managed Fishery Management Plan 2011.

2. Commencement

This plan comes into operation on 1 January 2012.

3. Interpretation

In this plan, unless the contrary intention appears -

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

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

associated primary boat means, where the term is used in connection with an auxiliary boat, the primary boat specified on the same licence as that auxiliary boat;

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

auxiliary boat means the licensed fishing boat that is specified on a licence as an auxiliary boat under clause 10;

broad-barred Spanish mackerel means fish of that common name described by the scientific classification opposite that name in Column 2 of Schedule 7 of the regulations;

CDR means the Catch and Disposal Record book issued in respect of a licence, for recording information regarding the consignment of mackerel taken in the Fishery;
**current 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;

**Fishery** means the Mackerel Managed Fishery as declared in clause 5;

**fillet** means -
(a) a fillet of mackerel other than broad-barred Spanish mackerel; or
(b) a fillet of broad-barred Spanish mackerel; or
(c) a fillet of fish other than mackerel to which the skin is not attached;

**fishing boat licence** has the same meaning as in regulation 3;

**Gascoyne Demersal Scalefish Managed Fishery** means the fishery to which the Gascoyne Demersal Scalefish Management Plan 2010 relates.

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

**length** means the measured length of a boat as defined by and determined in accordance with the Department of Transport Instruction to Surveyors notice 7/87 effective 21 September 1994, as revised or superseded from time to time;

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

**licence period** means the year commencing on 1 January in any year and ending on 31 December the same year;

**licensed fishing boat number** has the same meaning as in regulation 3;

**mackerel** means all fish of the genera *Scomberomorus*, *Grammatorcynus* and *Acanthocybium*;

**plan** means the Mackerel Managed Fishery Management Plan 2011;

**port area** means an area as described in Schedule 3;

**regulations** means the Fish Resources Management Regulations 1995;

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

**unit value** means the value of a unit of entitlement, in terms of kilograms of mackerel (whole weight), determined in accordance with clause 15(2);
usual entitlement means the entitlement conferred by a licence without regard to any entitlement temporarily transferred to or from the licence under section 141 of the Act;

West Coast Demersal Scalefish (Interim) Managed Fishery means the fishery to which the West Coast Demersal Scalefish (Interim) Management Plan 2007 relates.

4. Procedure before this Plan may be amended or revoked

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

PART 2 - THE FISHERY

5. Identification and declaration of the Fishery

(1) The Fishery to which this plan relates is the fishing for mackerel by any means in the waters described in Schedule 1.

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

(3) The Fishery is divided into the Areas described in Schedule 2.

PART 3 - LICENCES

6. Licences

A licence may authorise fishing for mackerel in a specified Area or Areas of the Fishery.

7. Criteria for the grant of a licence

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

   (a) at midday on 31 December 2011 the applicant was the holder of an interim managed fishery permit issued in accordance with the Mackerel Fishery (Interim) Management Plan 2004 in respect of that Area; and

   (b) the application is made on or prior to 29 February 2012.

(2) Notwithstanding subclause (1), the CEO may grant a person a licence to fish in an Area of the Fishery if -

   (a) the CEO is satisfied that an application would be made under section 140 of the Act to transfer usual units of entitlement to the licence, if it is to be granted, from another licence; and

   (b) the application referred to in paragraph (a) would be in respect of a total of not less than the minimum unit holding for the relevant Area as determined under clause 16.
(3) For the purposes of subclause (2) 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 17.

8. Duration of licences

A licence expires on 31 December next following the date of grant or renewal.

9. Fees

The fee set out in Schedule 5 is the fee to be paid in respect of the grant of a licence in accordance with clause 7(1).

Note: Where a licence is granted in accordance with clause 7(2) the fee relating to the units being transferred may be taken to have been paid by the transferor in respect of those units.

10. Matters specified on a licence

(1) A licence granted or renewed in respect of the Fishery must specify -
   (a) the name and business address of the holder of the licence;
   (b) the name, licensed fishing boat number and length of any licensed fishing boat which may be used as the primary boat for or in connection with fishing in the Fishery under the authority of that licence;
   (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 relates;
   (g) the Area or Areas of the Fishery in which fishing for mackerel is authorised;
   (h) the usual units of entitlement conferred by the licence, and the class of those units;
   (i) the current units of entitlement conferred by the licence, and the class of those units;
   (j) the unit value;
   (k) the amount of -
      (i) mackerel other than broad-barred Spanish mackerel; or
      (ii) broad-barred Spanish mackerel,
      that may be taken (in kilograms whole weight) under the authority of the licence; and
   (l) any conditions imposed on the licence by the CEO.

(2) A licence that authorises fishing in Area 1 of the Fishery may specify the name, licensed fishing boat number and length of any licensed fishing boat which may be used as an auxiliary boat for or in connection with fishing in an Area of the Fishery.
11. **Grounds to refuse to transfer a licence**

The CEO may refuse to transfer a licence on the grounds that the total fee has not been paid in respect of the licence to be transferred.

**PART 4 - CAPACITY OF THE FISHERY AND SCHEME OF ENTITLEMENT**

12. **Capacity of Areas of the Fishery**

For any period ending on 31 December in any year, the maximum quantity of mackerel (whole weight) that may be taken from -

(a) Area 1 of the Fishery is -  
   (i) 205,000 kilograms of mackerel other than broad-barred Spanish mackerel;  
   (ii) 60,000 kilograms of broad-barred Spanish mackerel;  

(b) Area 2 of the Fishery is -  
   (i) 126,000 kilograms of mackerel other than broad-barred Spanish mackerel;  
   (ii) 60,000 kilograms of broad-barred Spanish mackerel;  

(c) Area 3 of the Fishery is -  
   (i) 79,000 kilograms of mackerel other than broad-barred Spanish mackerel;  
   (ii) 60,000 kilograms of broad-barred Spanish mackerel.

13. **Scheme of entitlement**

(1) The entitlement to fish for mackerel in the Fishery under the authority of a licence shall be expressed as a number of units.

(2) Units shall be described as class 1A, 2A or 3A, or class 1B, 2B or 3B.

(3) A class 1A unit shall confer an entitlement to take an amount of mackerel other than broad-barred Spanish mackerel from Area 1.

(4) A class 2A unit shall confer an entitlement to take an amount of mackerel other than broad-barred Spanish mackerel from Area 2.

(5) A class 3A unit shall confer an entitlement to take an amount of mackerel other than broad-barred Spanish mackerel from Area 3.

(6) A class 1B unit shall confer an entitlement to take an amount of broad-barred Spanish mackerel from Area 1.

(7) A class 2B unit shall confer an entitlement to take an amount of broad-barred Spanish mackerel from Area 2.

(8) A class 3B unit shall confer an entitlement to take an amount of broad-barred Spanish mackerel from Area 3.
(9) The maximum number of units conferred by all licences for an Area of the Fishery is specified in Schedule 6.

14. Conferral of entitlement

Where a licence is granted in accordance with subclause 7(1) the licence shall, at the time it is granted, confer usual units of entitlement equal in number and class to the number of usual units of entitlement conferred by the relevant interim managed fishery permit as at midday on 31 December 2011.

Note: Where a licence is granted in accordance with subclause 7(2) the entitlement conferred by the licence will be the entitlement transferred to the licence in accordance with section 140 of the Act.

15. Unit value

(1) The sum of the entitlements to fish for mackerel that may be conferred by all the licences authorising fishing in an Area of the Fishery is equal to the capacity for that Area as determined in accordance with clause 12.

(2) The extent of the entitlement to fish in an Area of the Fishery arising from time to time from a unit (the unit value) shall be determined in accordance with Schedule 7 and be limited by reference to a number of kilograms (whole weight) of mackerel that may be taken.

(3) The holder of a licence, or a person acting on the licence holder’s behalf, must not fish in an Area of the Fishery unless the amount of mackerel (whole weight) as determined in accordance with clause 27 and taken from that Area of the Fishery under the authority of that licence during the period for which the licence has been granted or renewed is less than the sum of the unit values of the units conferred by that licence.

(4) Any fillets, to which the skin and scales are not attached, on board an authorised boat or landed ashore from an authorised boat shall, for the purposes of this plan, be taken to be narrow-barred Spanish mackerel, or alternatively mackerel other than narrow-barred Spanish mackerel, as the case requires.

(5) Subclause (4) does not apply in respect of fillets other than mackerel -
   (a) taken under the authority of; and
   (b) recorded as having been taken under the authority of -
      (i) a Gascoyne Demersal Scalefish Fishery managed fishery licence; or
      (ii) a West Coast Demersal Scalefish Fishery interim managed fishery permit; or
      (iii) a fishing boat licence as specified in the 
           Prohibition on Fishing By Line From Fishing Boats (Pilbara Waters) Order 2006.

16. Minimum number of units to be held

(1) Subject to subclause (2), a person must not fish under the authority of a licence at any time that the current entitlement specifies less than -
(a) 218 class 1A units, in respect of Area 1; or
(b) 153 class 2A units, in respect of Area 2; or
(c) 86 class 3A units, in respect of Area 3.

(2) A person must not fish in Area 1 of the Fishery at any time under the authority of a licence -
   (a) that was not granted to that person under clause 7(1); and
   (b) where the current entitlement on that licence specifies less than 435 class 1A units.

17. **Surrender of licence and reallocation of usual entitlement**

   (1) Subject to subclauses (2) and (3), the CEO may increase the entitlement conferred by a licence -
      (a) upon the application of the holder of a licence; and
      (b) where another licence has been surrendered under section 144 of the Act; and
      (c) where the holder of the licence referred to in paragraph (b) 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 regard to the surrender of a licence.

18. **Grounds to refuse to transfer part of an entitlement**

   The CEO may refuse to transfer any part of an entitlement under a licence on the grounds that -
   (a) the proposed transfer is not for a whole number of units; or
   (b) if the transfer were given effect then the number of units conferred by a licence, disregarding any temporary transfer of units to or from the licence, would be less than one; or
   (c) the value of the current units of entitlement (in kilograms whole weight) for the relevant class of unit that would be conferred by the licence after the transfer would be less than the total quantity of mackerel (whole weight) relevant to that class of unit taken under the authority of the licence during the period for which the licence has been granted or renewed; or
   (d) the total fee has not been paid in respect of the licence from which the units are to be transferred.

19. **Temporary transfer of part of an entitlement**

   The whole or part of an entitlement conferred by 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 current units of entitlement (in kilograms whole weight) for the relevant class of unit that would be conferred by the licence after the transfer would not be less than the total quantity of
mackerel (whole weight) relevant to that class of unit taken under the authority of the licence during the period for which the licence has been granted or renewed; and
(b) the transfer is of a whole number of units; and
(c) the total fee has been paid in respect of the licence from which the units are to be temporarily transferred.

Note: Transfer of the whole of an entitlement is subject to proclamation of the Fish Resources Management Amendment Bill 2011.

PART 5 - APPROVED ALCs AND NOMINATIONS AND NOTIFICATIONS

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

(1) A person must not use an authorised boat in the Fishery unless an approved ALC has been installed in that boat in accordance with the approved directions and is operating effectively.

(2) A person must not use an authorised boat in the Fishery unless the approved ALC installed in that boat has been tested, and is being used, in accordance with the approved directions.

(3) The master of an authorised boat must not use that boat in the Fishery unless-
(a) there is on board that boat a means of communication capable of providing communication between the master of the boat and the CEO at all times; and
(b) the CEO is notified of the appropriate form of identification (such as a radio call sign) that enables the master to be contacted by that means of communications.

21. Nomination to fish for mackerel

(1) The master of an authorised boat must not -
(a) allow a person to fish from that boat in the Fishery under the authority of a licence issued in accordance with this plan; or
(b) allow any mackerel or fillets to be on, or landed from, that boat in the waters of the Fishery, unless a nomination to fish has been made and is in effect in respect of that boat.

(2) A nomination to fish must -
(a) specify the licence under which fishing will be carried out during the nominated licensing period; and
(b) specify the Area or Areas of the Fishery where fishing will be undertaken during the nominated licence period; and
(c) be made -
   (i) where a fishing trip commences from outside the Fishery, immediately upon entering the waters of the Fishery; or
(ii) where the boat is in the waters of the Fishery, from a port area and not more than 2 hours prior to the boat commencing a fishing trip from the port area; and  
(d) be made in respect of -  
   (i) each licence under which fishing will be carried out; and   
   (ii) each fishing trip undertaken under the authority of a licence.

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

(4) A nomination under subclause (1) must be made by the approved ALC in accordance with the approved directions and is taken to have been made only when a confirmation message that the nomination is effective is received by the master through the ALC.

(5) Despite subclause (4), where the messaging facility of an approved ALC is not operating and the master has made a nomination by message to the Vessel Monitoring System Messaging Service in accordance with the approved directions, a nomination will be taken to have been made under subclause (1).

(6) The holder of a licence or a person acting on the holder’s behalf may, in accordance with subclause (2), make a new nomination which, if received by way of an approved ALC, revokes any previous nomination made for that licence period.

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

(8) A nomination made in accordance with subclause (2) or (6) ceases to be of effect -  
   (a) at the time the relevant authorised boat leaves the waters of the Fishery;  
   (b) subject to subclause 38(3), at the time the relevant authorised boat enters an Area of the Fishery in which fishing from that boat under the authority of the relevant licence is not permitted;  
   (c) when the entitlement conferred by the relevant licence is exhausted;  
   (d) when the relevant licence is transferred under s.140 of the Act;  
   (e) when the relevant licence expires; or  
   (d) where a master nominates to operate under a different licence.

22. Notification of taking a boat out of the waters of the Fishery

(1) The master of an authorised boat -  
   (a) used to fish in the Fishery under the authority of a licence; and   
   (b) for which a nomination made in accordance with clause 21 is in effect,   
   (c) must not allow that boat to be taken out of the waters of the Fishery unless -  
      (i) a notification of taking the boat out of the waters of the Fishery has been made and is in effect; and   
      (ii) the requirements of clause 27 have been completed.
(2) A notification under subclause (1) must be made-
   (a) by the use of an approved ALC in accordance with the approved
directions for use; and
   (b) not less than 6 hours prior to the boat being taken out of the waters of
the Fishery.

(3) A notification made contrary to subclause (2) is of no effect.

(4) The master of an authorised boat must not allow any fishing to occur at any
time that a notice made in accordance with this clause is in effect.

PART 6 - USE OF BOATS

23. Use of boats

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

(2) A person must not be, or act as, the master of an authorised boat unless that
person is the holder of the relevant licence, or is authorised by the holder of the
relevant licence to act for or on the licence holder’s behalf.

(3) The master of an authorised boat must not permit any mackerel or fillet to be
transferred -
   (a) to another boat from; or
   (b) from another boat to,
the authorised boat while that boat is at sea in the waters of the Fishery.

(4) Subclause (3) does not apply when mackerel or fillets are being transferred
from an auxiliary boat to the associated primary boat.

(5) The master of an authorised boat must not fish, or permit a person to fish,
from an authorised boat in an Area of the Fishery that is not specified on the
licence.

(6) Subject to clause 22, the master of an authorised boat which has been used to
fish for mackerel in the Fishery, must not depart the Fishery in that boat unless
all fish taken with the use of the boat have first been landed at a port area.

(7) Subject to clause 25(2) the master of an authorised boat which has been used
to fish for mackerel in an Area of the Fishery, must not depart that Area in that
boat unless all fish taken with the use of the boat have first been landed at a port
area within that Area.

(8) Subclause (7) does not apply to the master of a boat where -
   (a) the boat is an authorised boat as specified on two or more licences;
   (b) the licences referred to in paragraph (a) collectively authorise fishing
in adjoining Areas of the Fishery, or all Areas of the Fishery;
(c) the boat has been used to fish in at least two adjoining Areas of the 
Fishery on the same trip; and
(d) any fish on the boat are landed at a port area that is within one of the 
Areas of the Fishery in which the boat has been used to fish on that 
trip.

(9) The master of an authorised boat must not store or transport any mackerel on 
board that boat at any time that the boat is in the waters of the Gascoyne 
Demersal Scalefish Managed Fishery or the West Coast Demersal Scalefish 
(Interim) Managed Fishery, other than -

(a) whole mackerel;
(b) mackerel that has had its head removed or has been gutted; or
(c) mackerel that has had its head removed and has been gutted.

(10) Where a nomination to fish for mackerel is in effect in accordance with 
clause 21 the master of the relevant authorised boat must not allow that boat to 
be in any Area of the Fishery other than a port area or an Area of the Fishery 
specified in that nomination.

(11) The master of an authorised boat must not store or transport any mackerel 
on board that boat in any part of the Fishery where fishing under the relevant 
licence is prohibited in that part of the Fishery.

(12) The master of an authorised boat must not allow any mackerel or fillet to be 
on board the boat unless the whole weight (determined in accordance with 
clause 27) of all the mackerel and fillets taken or landed under the authority of 
the licence on which that boat is specified is less than or equal to the sum of the 
unit values of the units conferred by that licence.

24. **Auxiliary boats**

(1) A person may use a boat as the auxiliary boat in Area 1 of the Fishery under 
the authority of a licence where -

(a) in the case of a licence granted in accordance with subclause 7(1), the 
auxiliary boat was specified on the interim managed fishery permit; or

(b) in the case of a licence granted in accordance with subclause 7(2), the 
licence specifies an authorised boat which is equal to or greater than 
6.5 metres in length; and

(i) at the time the licence is granted, the holder of the licence also 
holds a fishing boat licence specifying the details of a boat which 
is less than 6.5 metres in length and the licence holder, at the time 
of applying for the licence, had applied to have that boat 
specified on the licence as the auxiliary boat; and

(ii) licence conditions numbered -

(I) 16, 17 and 18; or

(II) 16, 17, 18 and 54; or

(III) any one of, or any combination of, licence conditions 
numbered 25, 54, 85 or 112,
are specified on the fishing boat licence at the time of the application.

(2) A person must not use an auxiliary boat to fish in Area 2 of the Fishery unless the relevant licence authorises fishing in Area 1 of the Fishery and the auxiliary boat is specified on the licence under clause 10(2).

(3) A person must not use an auxiliary boat in the Fishery if that boat is greater than, or equal to, 6.5 metres in length.

(4) The master of an auxiliary boat must not permit that boat to be -
   (a) more than 5 nautical miles from the associated primary boat at any time it is being used in the waters of the Fishery; or
   (b) used in conjunction with any primary boat other than the associated primary boat.

PART 7 - LANDING OF FISH

25. Landing of mackerel

(1) Subject to clause 22, the master of an authorised boat must not, at any time that a nomination to fish made under clause 21 is in effect and the boat has been used to take fish -
   (a) in Area 1 only, allow any mackerel to be unloaded from that boat other than in a port area that is within Area 1; or
   (b) in Area 2 only, allow any mackerel to be unloaded from that boat other than in a port area that is within Area 2; or
   (c) in Area 3 only, allow any mackerel to be unloaded from that boat other than in a port area that is within Area 3.

(2) The master of an authorised boat must not, at any time that a nomination to fish made under clause 21 is in effect and the boat has been used to take fish in more than one Area of the Fishery on the same trip, allow any mackerel to be unloaded from that boat other than in a port area that is within one of the Areas of the Fishery in which the boat has been used for fishing on that trip.

(3) The master of an authorised boat must not allow any mackerel to be unloaded from that boat in the port areas of Denham, Point Quobba (Blow Holes) or Carnarvon other than -
   (a) whole mackerel;
   (b) mackerel that has had its head removed or has been gutted; or
   (c) mackerel that has had its head removed and has been gutted.

26. Notification of landing mackerel

(1) The master of an authorised boat used for the purpose of taking mackerel on a fishing trip must not allow any mackerel to be unloaded from a boat at any time when a nomination to fish made under clause 21 is in effect in respect of that boat, unless notice of the intention to unload fish mackerel has been made
by the use of an approved ALC in accordance with the approved directions and received by the Department.

(2) A notice made under subclause (1) must -
   (a) be made not less than 4 hours before entering a port area; and
   (b) be made not less than 1 hour before entering a port area where a fishing trip is less than 4 hours in duration; and
   (c) specify if any fish or fillets are to be unloaded; and
   (d) specify the port area at which the fish are to be unloaded.

(3) A person must not transmit any information in a notice made under subclause (1) that the person knows to be false or misleading.

(4) The master of an authorised boat used for the purpose of taking fish on a fishing trip must complete a ‘nil’ CDR following the conclusion of fishing in the waters of the Fishery where no mackerel were taken and -
   (a) a nomination to land fish in the Fishery is made under this clause; and
   (b) a nomination made in accordance with clause 23 is in force.

27. Determination of weight and records of mackerel taken out of or landed in the Fishery

(1) The master of an authorised boat that is to be taken out of the Fishery or from which any fish are landed ashore must not allow any mackerel to be taken out of the Fishery or landed ashore other than -
   (a) whole mackerel;
   (b) mackerel that has been gilled and gutted; or
   (c) mackerel that has been headed and gutted; or
   (d) fillets.

(2) The master of an authorised boat that is to be taken out of the waters of the Fishery or from which any mackerel are landed ashore must, prior to the boat being taken out of the waters of the Fishery, or within 4 hours of landing mackerel or fillets ashore, accurately determine the weight (in kilograms) of -
   (a) mackerel other than broad-barred Spanish mackerel; and
   (b) broad-barred Spanish mackerel; and
   (c) fillets,
   and whether the weight is of -
   (i) whole; or
   (ii) headed and gutted; or
   (iii) gilled and gutted; or
   (iv) filleted
   mackerel.

(3) Subject to subclause 29(3), the master of an authorised boat from which mackerel or fillets are to be taken out of the waters of the Fishery, or which have been landed ashore must, prior to the boat being taken out of the waters of the Fishery, or within 4 hours of landing the mackerel or fillets ashore, as the case may be, sign and specify in triplicate in a CDR accurate details of -
(a) the Area from which the mackerel or fillets were taken;
(b) the place, time and date of the landing of the mackerel or fillets;
(c) the name, licence number and business address of any person to whom any mackerel or fillets have been or are to be consigned (as the case may require);
(d) the name of any person retaining any mackerel or fillets which are not being consigned and the place to which the mackerel are to be taken (as the case may require);
(e) the name of the employer of any person who is to transport the mackerel or fillets;
(f) the number of containers in which the mackerel or fillets are consigned;
(g) the determination of the weight of -
   (i) mackerel other than broad-barred Spanish mackerel;
   (ii) road-barred Spanish mackerel,
   as determined in accordance with subclause (2), and whether the weight is of -
      (I) whole; or
      (II) headed and gutted; or
      (III) gilled and gutted; or
      (IV) filleted mackerel;
(h) the whole weight (in kilograms) of mackerel using the determination made in accordance with subclause (2) and the conversion factors specified in Schedule 4; and
(i) the name of the master of the authorised boat and details of the licence under the authority of which the mackerel or fillets were taken.

(4) The master of an authorised boat from which any mackerel are landed ashore must not -
   (a) depart; or
   (b) permit the mackerel or fillets to be removed from, the place where the weight of the mackerel or fillets was determined, until subclauses (2) and (3) have been complied with.

(5) A person to whom subclause (3) applies must retain and keep safe and secure the triplicate copies of the CDR form referred to in subclause (3), and produce the copies to a Fisheries Officer on demand.

(6) A person to whom subclause (3) applies must, within 48 hours of landing any mackerel or fillets ashore, forward the duplicate copy of the completed CDR referred to in subclause (3) to the Fremantle office of the Department.

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

(8) For the purposes of subclause (3) the master of the boat must use an accurate means of determining weight which, immediately prior to weighing the mackerel, is determined to be in proper working condition.
(9) A person must not remove any mackerel or fillets from the place where the mackerel or fillets were landed ashore -
   (a) unless subclauses (2) and (3) have been complied with;
   (b) without the consent of the master;
   (c) unless the mackerel and fillets are in the same condition (whole, gilled and gutted, headed and gutted, or filleted) as when they were landed ashore; and
   (d) a completed CDR is securely attached to the mackerel or fillets.

(10) The master of an authorised boat from which any fish mackerel are landed ashore must ensure -
   (a) that any mackerel or fillets consigned from the place of landing has securely attached to it an original copy of the completed CDR; and
   (b) that any container of mackerel or fillets in a consignment is clearly and legibly labelled with the CDR number that relates to that consignment.

(11) For the purposes of subclause (10), each occasion on which mackerel or fillets are transported from the place of landing shall constitute a consignment, and a separate completed CDR shall be used in respect of each such consignment.

(12) A person must complete a CDR in respect of mackerel and fillets taken from each Area of the Fishery.

(13) A person must not record on any CDR any mackerel or fillets not taken from the Area to which that CDR relates.

28. Issue of CDRs and replacements

(1) Where a licence is in force the licence holder may request the CEO to issue a CDR in respect of that licence.

(2) Where a CDR issued in accordance with subclause (1) cannot be produced, and the licence holder satisfies the CEO of the quantity of mackerel taken under the authority of the licence, the CEO may issue a replacement CDR in respect of that licence.

(3) A CDR is to be in the form approved from time to time by the CEO.

29. Obligations in respect of CDRs

(1) The master of an authorised boat must have on board the boat a CDR in respect of every licence under the authority of which the boat may be used for fishing.

(2) The master of an authorised boat must comply with clause 27(3) with respect to each day of each fishing trip made under the authority of a licence.
(3) The master of an authorised boat that is being used to fish in Area 1 of the Fishery must ensure that all entries required to be made in a CDR book are completed -
   (a) on each day of a fishing trip; and
   (b) prior to the boat being taken out of the waters of the Fishery.

(4) The master of an authorised boat must -
   (a) keep the CDR secure and in good condition at all times; and
   (b) produce the CDR to a fisheries officer on demand.

(5) The master of an authorised boat must, at the time that no further entries can be made in a CDR, return the CDR to the holder of the licence in respect of which the CDR was issued.

(6) The licence holder must -
   (a) retain the CDR issued in respect of that licence for 5 years from the date of the last entry in that CDR; and
   (b) produce the CDR to a fisheries officer on demand.

(7) Where the holder of a licence or the master of an authorised boat loses -
   (a) a CDR; or
   (b) a form required to be completed in a CDR,
the licence holder or master, as the case may be, must immediately report the loss of the CDR or form to the Department.

30. Whole weight of mackerel

(1) For the purposes of this plan, where a quantity of mackerel is expressed in terms of a whole weight, the weight at the time of weighing shall be taken to be-
   (a) where the mackerel is whole, that weight of mackerel measured in kilograms; and
   (b) where the mackerel is -
      (i) gilled and gutted only; or
      (ii) headed and gutted only; or
      (iii) that weight of mackerel measured in kilograms multiplied by the relevant conversion factor; and
   (c) in the case of fillets taken under clause 15(4) to be mackerel, that weight of fillets measured in kilograms multiplied by the relevant conversion factor.

(2) In this clause -

   relevant conversion factor means the conversion factor specified in Schedule 4 that corresponds to the condition of the mackerel at the time it is weighed.
PART 8 - GENERAL REGULATION OF FISHING

31. Persons prohibited from fishing in the Fishery

(1) Subject to subclause (3), a person must not fish in the Fishery other than -
   (a) in accordance with this plan; and
   (b) under the authority of a licence.

(2) Subclause (1) does not apply to fishing by a person under the authority of an
   authorisation specified in Schedule 8.

(3) This plan does not apply to a person fishing for mackerel for a recreational
   purpose in accordance with the Act.

32. Closure of areas within the Fishery

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

(2) A notice made in accordance with subclause (1) -
   (a) may only be made after consultation with all the licence holders who
      are entitled to fish in the Fishery, or in that part of the Fishery that is
      the subject of the proposed prohibition;
   (b) must take into account any advice received from the Department’s
      Director of Fisheries Research;
   (c) may be made to apply at all times or at any specified time; and
   (d) revokes any previous notice made under that subclause.

(3) A person must not fish for mackerel in the Fishery, or a specified part of the
   Fishery, at any time when fishing in the Fishery, or that specified part of the
   Fishery, has been prohibited by a notice made under subclause (1).

(4) The master of an authorised boat must not store or transport any mackerel on
   board that boat in the Fishery, or a specified part of the Fishery, at any time
   when fishing in the Fishery, or that specified part of the Fishery, has been
   prohibited by a notice made under subclause (1).

(5) The master of an authorised boat must ensure that all troll lines, handlines,
   fishing lines and booms carried on or attached to that boat must be securely
   stowed on board that boat when that boat is in any waters of the Fishery -
   (a) which are closed by reason of a notice made under subclause (1); or
   (b) in which that boat is not authorised to be used for fishing.

(6) Subclause (5) does not apply to the master of a boat -
   (a) acting in accordance with a nomination to fish made under clause 21; and
(b) where the boat is steaming continuously and directly from a port area to an Area of the Fishery specified in that nomination, to commence fishing.

33. **Prohibition on fishing outside Area specified on licence**

A person fishing in the Fishery under the authority of a licence must not fish in an Area of the fishery not specified on that licence.

34. **Prohibition on fishing methods**

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

(a) hand line; or
(b) troll line.

35. **Prohibition on selling, purchasing or dealing in mackerel**

(1) A person must not sell, purchase, or deal in, or attempt to sell, purchase, or deal in, any mackerel or fillets taken from the Fishery in contravention of this plan.

(2) A person must not sell, purchase, or deal in, or attempt to sell, purchase or deal in, mackerel or fillets taken from the Fishery, unless those fish were taken by the holder of a commercial fishing licence operating in accordance with the provisions of a licence issued in accordance with this plan.

36. **Prohibition on having mackerel on board**

The master of a fishing boat that is not an authorised boat and which is used to fish in the waters of the Fishery must ensure that no mackerel are stored or transported on board that boat.

37. **Prohibition on having fish other than mackerel on board**

(1) The master of an authorised boat must ensure that no fish other than mackerel are stored or transported on board that boat.

(2) Subclause (1) does not apply in respect of –

(a) fish taken under the authority of an authorisation specified in Schedule 8; or
(b) waters that are not specified as being waters to which the legislative instruments specified in Schedule 8 apply.

38. **Exceptions to clauses 23, 25, and 26**

(1) Subclauses 23(7), 23(11), 25(1)(a), and 25(2) do not apply to the master of a boat where -

(a) the boat is authorised to be used for fishing in Area 1;
(b) the boat has been used to fish in Area 1 only;
(c) the master of that boat has, under clause 26(1) given notification that mackerel will be unloaded in the port area of Port Hedland; and
(d) the boat is steaming continuously and directly to Port Hedland to unload the mackerel.

(2) Subclauses 23(7), 23(11), 25(1)(b), and 25(2) do not apply to the master of a boat where-
(a) the boat is authorised to be used for fishing in Area 2;
(b) the boat has been used to fish in Area 2 but not Area 1;
(c) the master of that boat has, under clause 26(1) given notification that mackerel will be unloaded in the port area of Broome; and
(d) the boat is steaming continuously and directly to Broome to unload the mackerel.

(3) Notwithstanding subclauses 23(7), 25(2), or 26(1), the master of an authorised boat may land mackerel from that boat at a port area which is outside the Area in which the boat has been used to fish where the master of the boat, while the boat is in a port area, has advised the CEO by ALC and in accordance with the approved directions that-
(a) on the next occasion that mackerel will be unloaded from the boat, the boat will be in a port area outside the Area in which the boat will be used for fishing;
(b) a notification to land mackerel will be made in accordance with clause 26;
(c) a nomination to fish under clause 21 will not be made in respect of the boat for the remainder of that licence period.

39. Defence to section 74 of the Act

It is a defence in proceedings for an offence against section 74 of the Act in respect of contravening clause 23(12) or clause 15(3) for a person charged to prove that-
(a) notice of the fishing in excess of the entitlement was given to the CEO, in a manner and in a form approved by the CEO, within 7 working days of the mackerel or fillets being landed ashore; and
(b) the licence holder, not more than 14 days after landing the mackerel or fillets, pays to the Fisheries Research and Development Fund an amount of money equal to the product of the number of kilograms (whole weight) by which the entitlement was exceeded and the prescribed value (per unit of weight) for mackerel set out in Schedule 9 of the regulations.

40. Offences and major provisions

A person who contravenes clause-
(a) 15(3), 20, 21, 22, 23, 25, 26(1), 26(2), 26(3), 27, 29, 31, 32, 33, 34, 35, 36, or 37; or
(b) 24, or 26(4),
commits an offence, and for the purposes of section 75 of the Act the offences specified in paragraph (a) are major provisions.
SCHEDULE 1

Description of the Fishery

[clause 5]
All Western Australian waters of the Indian Ocean and the Timor Sea north of Cape Leeuwin (34° 22.51' south latitude).

SCHEDULE 2

Areas of the Fishery

[clause 6]

Area 1 - All Western Australian waters off the north coast of Western Australia on the landward side of the outer boundary of the Australian fishing zone and east of a line commencing at the intersection of the high water mark on the coastline and 121° 00' east longitude and extending north from that point along the meridian to the outer boundary of the Australian fishing zone.

Area 2 - All Western Australian waters off the north west coast of Western Australia bounded by a line commencing at the intersection of the high water mark on the coastline and 114° 00' east longitude (Jurabi Point); thence extending north along the meridian to the outer boundary of the Australian fishing zone; thence generally in a north easterly direction along the outer boundary of the Australian fishing zone to where it intersects with 121° 00' east longitude; thence south along the meridian to where it intersects with the high water mark on the coastline of Western Australia; thence generally south westerly along the high water mark back to the commencement point.

Area 3 - All Western Australian waters off the coast of Western Australia bounded by a line commencing at the intersection of the high water mark on the coastline and 114° 00' east longitude (Jurabi Point); thence extending north along the meridian to the outer boundary of the Australian fishing zone; thence generally in a south westerly; thence southerly; thence in an easterly direction along the outer boundary of the Australian fishing zone to where it intersects with 34°22.51' south latitude; thence extending east along the parallel to where it intersects with the high water mark on the coastline of Western Australia (Cape Leeuwin); thence generally north westerly along the high water mark back to the commencement point.

SCHEDULE 3

Port areas

Wyndham
All the waters of the Fishery within 3 nautical miles of the intersection of 15° 27.094’ south latitude and 128° 6.073’ east longitude.

Derby
All the waters of the Fishery within 3 nautical miles of the intersection of 17° 17.509’ south latitude and 123° 36.411’ east longitude.
Broome
All the waters of the Fishery within 3 nautical miles of the intersection of 18º 00.03' south latitude and 122º 13.11' east longitude.

Port Hedland
All the waters of the Fishery within 3 nautical miles of the intersection of 20º 18.92' south latitude and 118º 34.62' east longitude.

Port Walcott (Point Samson)
All the waters of the Fishery within 3 nautical miles of the intersection of 20º 38.20' south latitude and 117º 11.53' east longitude.

Port of Dampier
All the waters of the Fishery bounded by a line commencing at the high water mark at the intersection of 116º 39.00' east longitude; thence extending north by west along the geodesic to the high water mark on East Lewis Island at 116º 38.13' east longitude (King Point); thence generally easterly along the high water mark on the southern side of East Lewis Island to the intersection of 116º 39.90' east longitude (Roe Point); thence easterly along the geodesic to the intersection of the high water mark on the coastline at 20º 37.50' south latitude (Phillip Point); thence generally south westerly along the high water mark to the commencement point.

Beadon Creek, Onslow
All the waters of the Fishery within 3 nautical miles of the intersection of 21º 38.28' south latitude and 115º 07.97' east longitude.

Exmouth
All the waters of the Fishery within 3 nautical miles of the intersection of 21º 57.445' south latitude and 114º 08.477' east longitude (Exmouth Marina and associated area).

Point Quobba (Blowholes)
All the waters of the Fishery within 3 nautical miles of the intersection of 24º 29.22' south latitude and 113º 24.57' east longitude.

Carnarvon
All the waters of the Fishery within 3 nautical miles of the intersection of 24º 53.934' south latitude and 113º 39.071' east longitude (T jetty, Fishing Boat Harbour).

Denham
All the waters of the Fishery within 3 nautical miles of the intersection of 25º 55.71' south latitude and 113º 31.99' east longitude (Service jetty, Denham).

Kalbarri
All the waters of the Fishery within 3 nautical miles of the intersection of 27º 42.50' south latitude and 114º 09.50' east longitude.

Port Gregory
All the waters of the Fishery within 3 nautical miles of the intersection of 28º 11.45' south latitude and 114º 14.94' east longitude.
Geraldton
All the waters of the Fishery within 3 nautical miles of the intersection of 28° 46.47' south latitude and 114° 35.298' east longitude.

Port Denison
All the waters of the Fishery within 3 nautical miles of the intersection of 29° 16.31' south latitude and 114° 55.192' east longitude.

Jurien Bay
All the waters of the Fishery within 3 nautical miles of the intersection of 30° 17.268' south latitude and 115° 02.605' east longitude.

Fremantle
All the waters of the Fishery within 3 nautical miles of the intersection of 32° 03.654' south latitude and 115° 44.611' east longitude.

SCHEDULE 4
Conversion factors

1. Whole weight = gilled and gutted weight (kg) x 1.048.
2. Whole weight = headed and gutted weight (kg) x 1.176.
3. Whole weight = fillet weight (kg) x 1.608.

SCHEDULE 5
Fees

The fee payable for the grant of a licence that expires on 31 December 2012 is *TBA*.

SCHEDULE 6
Maximum number of units conferred by licences

<table>
<thead>
<tr>
<th>Area</th>
<th>Class A Units</th>
<th>Class B Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4350</td>
<td>1273</td>
</tr>
<tr>
<td>2</td>
<td>3059</td>
<td>1457</td>
</tr>
<tr>
<td>3</td>
<td>1720</td>
<td>1305</td>
</tr>
</tbody>
</table>

The maximum number of units that may be conferred by all licences is the number specified in the table to this Schedule as reduced from time to time where -
(a) a licence is not renewed within the period specified by s.139 of the Act; or
(b) a licence is cancelled; or
(c) units are forfeited by the operation of the Act.
SCHEDULE 7

Unit values

[clause 15]

The extent of entitlement to fish in an Area of the Fishery that arises from a unit during a licensing period shall be determined using the following formula -

\[ A = \frac{C}{B} \]

Where -

A is the capacity of an Area of the Fishery (in respect of either mackerel other than broad-barred Spanish mackerel, or broad-barred Spanish mackerel, whichever applies to the relevant class of unit), as specified in clause 14;

B is the sum of all of the units of the relevant class of unit for the Area as specified on all the relevant licences immediately before the expiry of the relevant licensing period.

C is the value of the relevant class of unit (in kilograms).

Where, as a result of the above calculation a result is more than two decimal places, then the fraction ending with 50 or less at the 3\textsuperscript{rd} and 4\textsuperscript{th} decimal places is rounded down to two decimal places and any fraction ending with 51 or more at the 3\textsuperscript{rd} and 4\textsuperscript{th} decimal places is rounded up to two decimal places.

For the purpose of this schedule the “relevant class of unit” for the relevant species is set out in column 2 opposite the specified Area in column 1 of the table below:

<table>
<thead>
<tr>
<th>Area</th>
<th>Relevant class of unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area 1</td>
<td>Mackerel other than broad-barred Spanish mackerel class 1A</td>
</tr>
<tr>
<td>Area 1</td>
<td>Broad-barred Spanish mackerel class 1B</td>
</tr>
<tr>
<td>Area 2</td>
<td>Mackerel other than broad-barred Spanish mackerel class 2A</td>
</tr>
<tr>
<td>Area 2</td>
<td>Broad-barred Spanish mackerel class 2B</td>
</tr>
<tr>
<td>Area 3</td>
<td>Mackerel other than broad-barred Spanish mackerel class 3A</td>
</tr>
<tr>
<td>Area 3</td>
<td>Broad-barred Spanish mackerel class 3B</td>
</tr>
</tbody>
</table>
SCHEDULE 8

Authorisations to which certain exceptions apply

[clause 31]

(a) Cockburn Sound (Line and Pot) Fishery managed fishery licence
(b) West Coast Demersal Scalefish Fishery interim managed fishery permit
(c) Gascoyne Demersal Scalefish Fishery managed fishery licence
(d) Northern Demersal Scalefish Fishery managed fishery licence
(e) Fishing boat licence as specified in the Prohibition On Fishing By Line From Fishing Boats (Pilbara Waters) Order 2006

12 August 2011
FISHERIES

FI1401*

FISH RESOURCES MANAGEMENT ACT 1994

INTENTION TO DETERMINE A MANAGEMENT PLAN FOR THE MACKEREL MANAGED FISHERY

FD 431/09 [942]

L. Norman Moore MLC. Minister for Fisheries. hereby give notice that, in accordance with section 64(2) of the Fish Resources Management Act 1994. I intend to determine a management plan for the Mackerel Managed Fishery.

A copy of the draft management plan may be obtained from the Head Office of the Department of Fisheries. 3rd Floor. The Atrium. 188 St Georges Terrace. Perth or the Department of Fisheries website, www.fish.wa.gov.au

Interested persons who wish to comment on the draft management plan are invited to make representations in writing to the Minister for Fisheries by 4.30 pm. Friday 30 September 2011.

Representations in connection with the draft management plan may be forwarded to—

Minister for Fisheries
Draft Mackerel Management Plan
c/- Chief Executive Officer
Department of Fisheries
3rd Floor. The Atrium.
168 St Georges Terrace. Perth

Dated this 15th day of August 2011.

NORMAN MOORE MLC. Minister for Fisheries.