

MANAGEMENT OF THE PROPOSED SOUTH COAST TRAWL FISHERY

A Discussion Paper

FISHERIES MANAGEMENT PAPER No. 199

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MAKING A SUBMISSION ON THIS DISCUSSION PAPER

This discussion paper *Management of the Proposed South Coast Trawl Fishery* (Fisheries Management Paper No. 199) is designed to inform the fishing community and general public about the issues and management proposals relating to the proposed South Coast Trawl Fishery. The Department of Fisheries encourages comment about the issues raised and the proposed management recommendations in this report.

Points to consider for your submission

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.
- Suggest alternative ways to resolve any of the issues you have raised, with a view to the fact that the Minister for Fisheries 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 **Friday 16 December 2005**. Please send your submission before this date, along with your full name, address, and association details (if applicable) to:

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

Where can you get extra copies of this document?

For extra copies of the paper, please contact the Department of Fisheries' Southern Regional Office on (08) 9841 7766. Copies of this paper (Fisheries Management Paper No. 199) can also be downloaded from: www.fish.wa.gov.au

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SECTION 1 INTRODUCTION

Prior to 1 July 1986, trawling in the waters off the south coast of Western Australia (described as the 'South Coast Trawl Fishery') was relatively unrestricted. However, in the mid 1980s, the State and Australian Government implemented a development plan for trawl fishing in the area.

On 1 July 1986, the then Minister for Fisheries issued a statement, saying that a temporary freeze had been placed on the number of boats that could fish using trawl gear off the south coast, pending the consideration and adoption of a development management plan by the Australian Government. The Minister also stated that access to any resulting fishery would only be granted to those vessels already trawling in the region.

Subsequently, on 11 July 1986, the Minister issued directions to Licensing Officers for the purpose of giving effect to the 'freeze'. At the time, eleven fishing boat licence holders were considered eligible for access and their fishing boat licences were subsequently 'endorsed' to permit the use of trawl gear off the south coast of the State, east of 115 degrees east longitude.

In late 1987, the Minister approved a development plan for the South Coast Inshore Trawl Fishery (Fisheries Management Paper No. 13) and made a number of notices regulating trawling activities in the Recherche Archipelago. Fishing Boat Licences were subsequently 'endorsed' by reference to those notices.

The development plan was declared to be for a period ending 31 December 1989, subject to extension for a further year if necessary.

Despite the considerable interest in the fishery during 1986 to 1989, fishing results demonstrated that the economic returns were marginal and a number of operators withdrew from participation in the fishery (at which time their eligibility to operate in the fishery lapsed).

By 1993, only four fishing boat licences remained endorsed to use trawl gear in the fishery. To date, these same four licences continue to have conditions/endorsements intended to permit certain trawl activities in State-controlled waters on the south coast.

SECTION 2 FISHERY OVERVIEW

2.1 Physical area

The South Coast Trawl fishery exists within the waters off the south coast of the State of Western Australia (WA). The physical area of the fishery can be described as:

“All the waters off the South Coast of the State between Cape Leeuwin (115 degrees 8 minutes east longitude), and 125 degrees east longitude on the landward side of the 200m isobath, and all Western Australian waters between 125 degrees east longitude and 129 degrees east longitude (i.e. the Western Australian/South Australian border).”

Although trawl fishers may operate anywhere in the area of the fishery, in practice trawling typically occurs in three key areas:

- In waters near Bremer Bay (blue block in Figure 1);
- The Recherche Archipelago (dark green blocks in Figure 1); and
- In waters near Israelite Bay (red block in Figure 1).

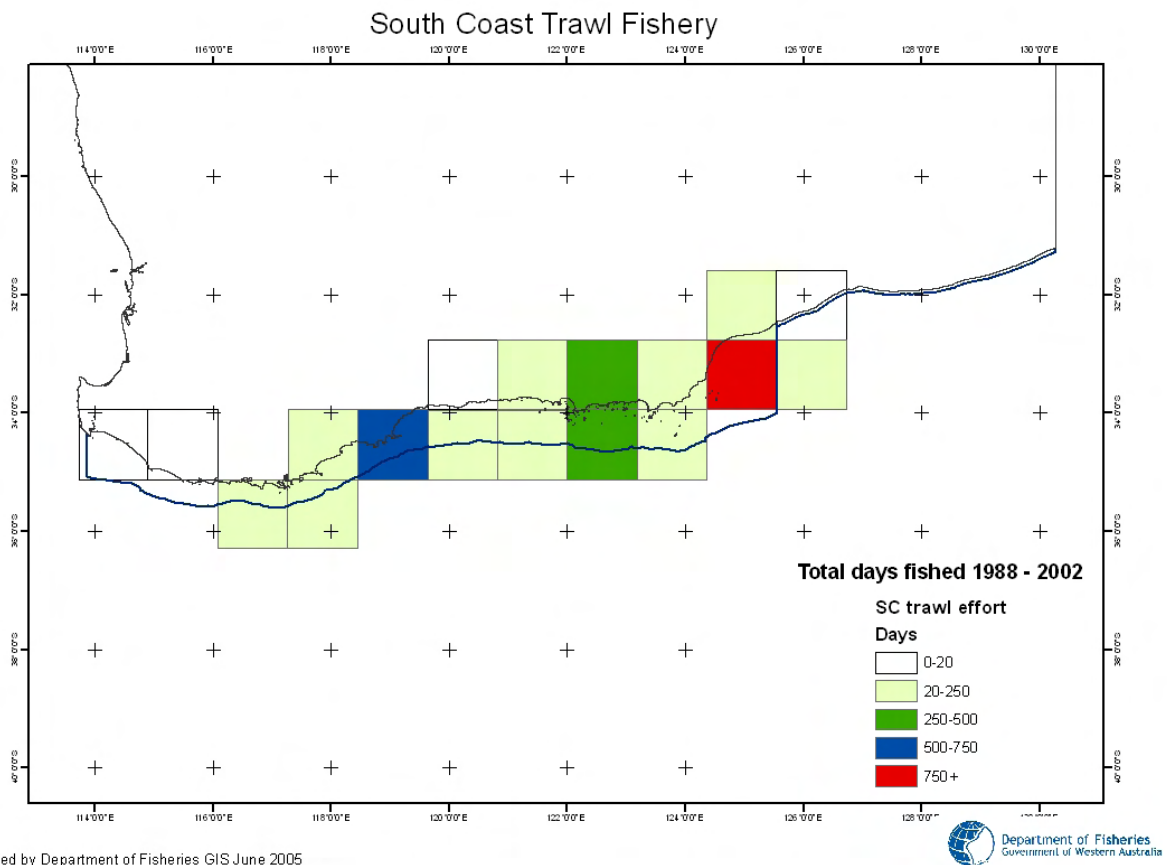


Figure 1 Area of the South Coast Trawl Fishery (blue line) and indication of relative fishing effort per research block.

2.2 Catch data

Over the past 13 years, annual catches¹ of scallops in the South Coast Trawl Fishery have ranged from only one tonne in 1993 to a high of 2,722 tonnes (whole weight) in 2000 (see Figure 2). Consequently, the value of the fishery has also fluctuated, ranging from \$5,000 to \$14.3 million, with an average value of about \$1.3 million.

Department of Fisheries research scientists believe that scallop abundance on the south coast is heavily dependant on the oceanographic environment (which is dominated by the strength of the Leeuwin Current).

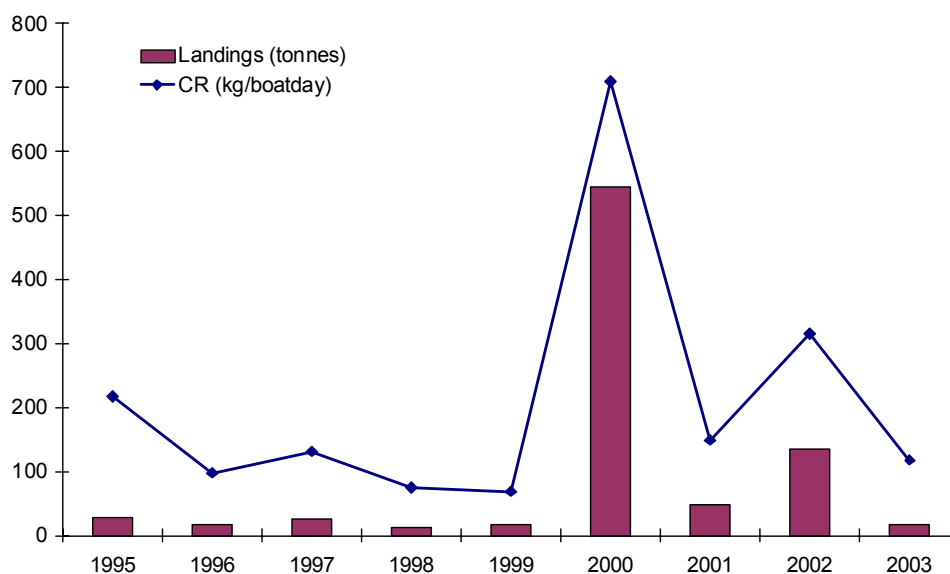


Figure 2 *Scallop catch (tonnes meat weight) and catch rate (kg/boat day) history of the South Coast Trawl Fishery, 1995 to 2003*

With regard to fish trawling, the primary species taken off the south coast using this method between 1990 and 2002 was leatherjacket (average of 24 tonnes per year). There were also reported catches of Bight redfish (average of approximately 9 tonnes per year) and queen snapper (average catch of nearly 8 tonnes per year).

The average annual catch of all fish taken by the fish trawl method between 1990 and 2002 was 61 tonnes, with a significant range of total catch in this period - including a 'high' of nearly 197 tonnes of fish taken in 1992 and a 'low' of 1.5 tonnes taken in 1996.

There was no reported catch using fish trawl gear on the south coast between 1997 and 2001, but approximately 17 tonnes of fish was taken in 2002, with an estimated beach value of \$41,000.

¹ The three owners of the four vessels in this fishery have provided written consent for otherwise confidential catch information being included in any papers or reports relating to the management of the South Coast Trawl Fishery. Despite this, the figures presented below accumulate the catch results of all boats, and should not specifically identify any single vessel in the fishery.

The level of fish trawling effort has fluctuated significantly over time and the catch variations largely reflect the variation in effort.

2.3 Current fishing methods

2.3.1 Scallop trawling

Scallops are the species primarily targeted in the South Coast Trawl Fishery. Vessels generally tow two low-opening demersal otter trawl nets at a speed of around 2.5 to 3.5 knots, as this is the most effective speed when targeting scallops. Shot durations can vary from around 20 minutes up to 150 minutes, depending on scallop abundance.

Two otter boards are attached at the extremities of each net at the opening (see Figure 3). Forces produced by water flowing over the otter boards open the trawl nets laterally. The lateral spread is vital to the catch efficiency of trawl gear, as this determines the area swept.

Generally, the opening width of the net is between 60 and 70 per cent of the length of the headrope. A ground chain made of metal, with links of a maximum of 10mm diameter, is attached by short dropper chains to a footrope. The ground chain travels across the sea floor and disturbs scallops so they swim up from the seafloor and into the path of the oncoming net.

Low opening nets have the headrope set *in front* of the footrope (which creates a net ‘veranda’), ensuring that scallops disturbed by the ground chain do not usually pass over the headrope. The ground chain is designed/set to make it skim over the sand without digging into the sea floor.

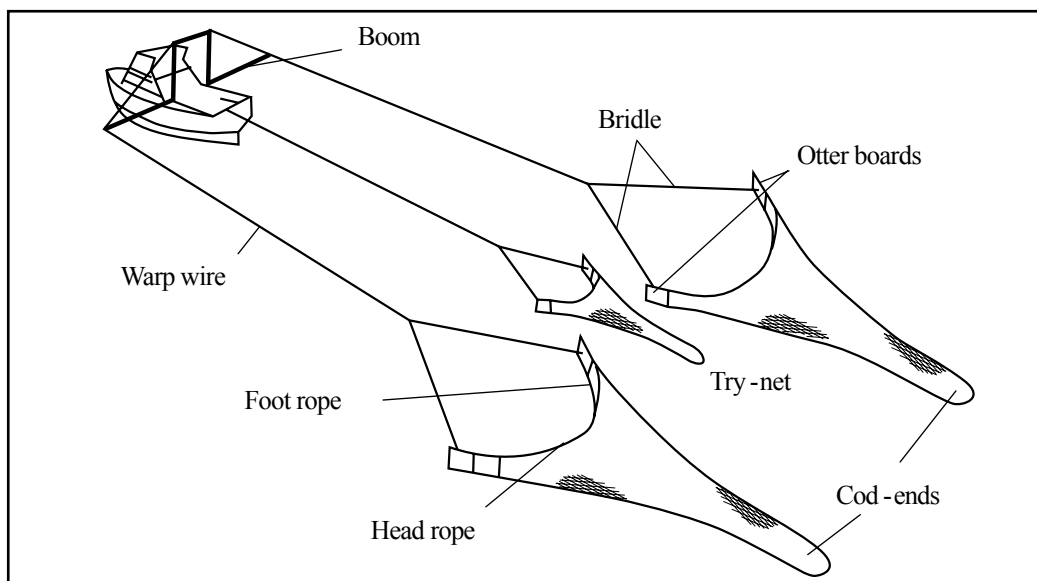


Figure 3 *The standard twin otter rig and try gear used by trawlers targeting scallops in the South Coast Trawl Fishery.*

2.3.2 Fish Trawling

Typically, fish trawl gear is towed as a single net, with the otter boards being set further forward and away from the net than is the case with scallop trawling. The long connecting ropes ('sweeps') have a herding effect on the fish (see Figure 4).

Fish trawling can involve demersal (bottom) finfish trawling or mid-water trawling. Catch returns submitted to the Department of Fisheries do not (at present) differentiate between demersal finfish trawling and mid-water trawling. Small catches of finfish are also taken as by-catch when targeting scallops.

Mid-water trawl gear is used to target fish that occur somewhere between the surface and the seabed. The history of mid-water trawling off the south coast is minimal, although there are some operators who believe that a mid-water trawl fishery exists for blue mackerel (an Australian Government managed species – see “Jurisdiction” at Section 4).

The gear used in mid-water trawl fishing is best used with net monitoring technology which allows the skipper of the vessel to determine the depth of the net – and the depth of the school of fish - as it is trawled through the water column.

Although fish trawling is less common in the South Coast Trawl fishery, all four fishing boat licences in the existing fishery have reported catches of various species of finfish (primarily leatherjacket, redfish and queen snapper).

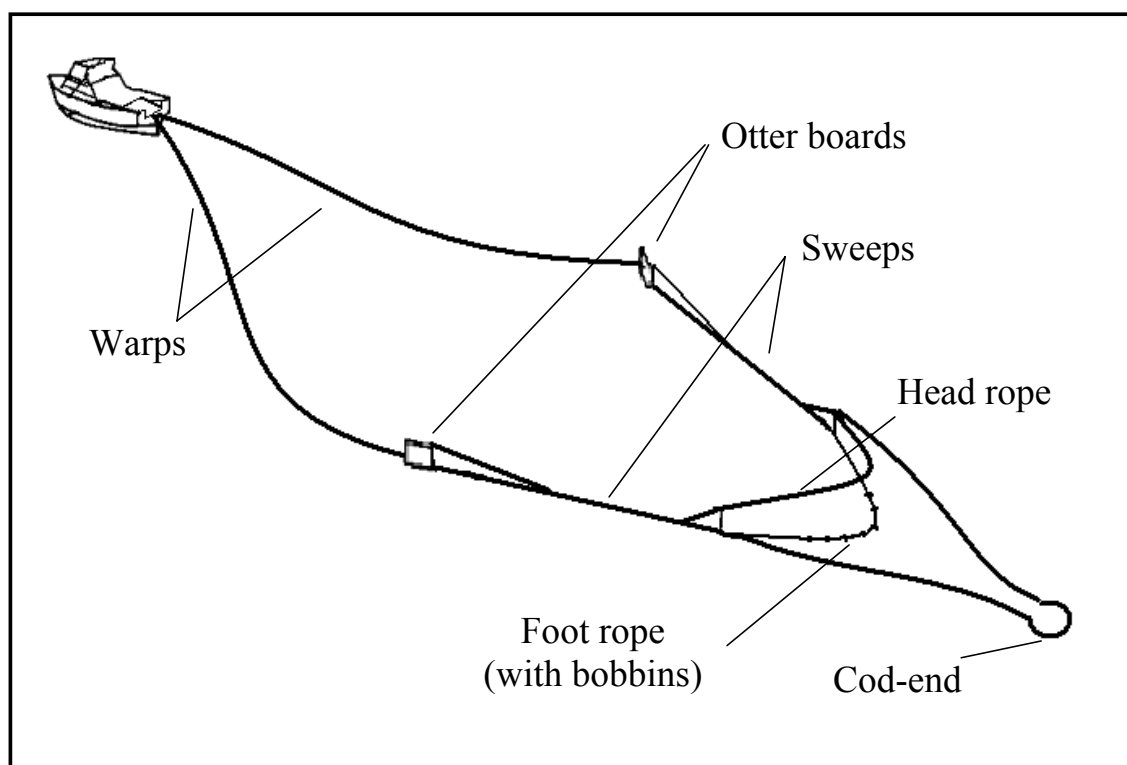


Figure 4 The standard gear used by demersal fish trawlers operating in other Western Australian fish trawl fisheries.

SECTION 3 MANAGEMENT OBJECTIVES

The management objectives of this fishery must be consistent with the objects listed at Part 1, Section 3 of the *Fish Resources Management Act 1994* (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 proposed process objectives to achieve the broad objects of the FRMA for the South Coast Trawl fishery are:

1. To introduce fishery management controls which are adaptive to the high level of variability of the scallop stocks off the south coast of the State.
2. To provide for operators in Australian Government-managed fisheries to take fish species (such as blue mackerel) in the waters of the South Coast Trawl fishery while not placing State-managed species that are taken as bycatch under threat of overexploitation.
3. To develop management arrangements that will help to minimise the likelihood of conflict between operators in this fishery, operators in other fisheries and the general community.
4. To optimise the social and economic benefits to the community from the fishery, particularly in the major population centres across the south coast of the State.

3.1 Possible impact of proposed management arrangements on other user groups

If the proposed management arrangements defined in this paper are implemented, there should be little or no change in the impact of the fishery on other user groups (including recreational fishers). The proposed management arrangements seek to bring existing trawling activities under a more appropriate and sophisticated management framework, and more effectively control trawling effort.

SECTION 4 JURISDICTION

The jurisdiction for the State management of trawl fishing off the south coast is provided under the *Offshore Constitutional Settlement 1995* (OCS) - see Fisheries Management Paper 77. The OCS is a legal arrangement between the Australian Federal and State Governments, and defines control over the fisheries that operate off each State of Australia. The OCS sets out jurisdictional arrangements for all waters between the coast and the outer limit of the Australian Fishing Zone (200 nautical miles).

An “arrangement” which gives effect to the OCS was gazetted in the Australian Government Gazette No.GN4 of 1 February 1995 and is titled “*Arrangement Between the Commonwealth and State of Western Australia in Relation to the Fishery for Fish and Other Aquatic Biological Resources in Waters Relevant to Western Australia*” (the arrangement). The arrangement declares that the fisheries in all waters relevant to Western Australia are to be managed in accordance with the laws of the State, except for some fisheries that are specifically excluded.

One fishery that is specifically excluded from State management is the Great Australian Bight Trawl Fishery (now a part of the Southern and Eastern Scalefish and Shark Fishery). However, it is important to note that an error exists in the description of this fishery in the arrangement. The coordinates in the schedule describe a ‘line’ instead of an ‘area’ for the fishery.

As a result, the State’s technical jurisdiction extends beyond the 200-metre isobath, although this was clearly not the intention of the State and Australian Governments. The arrangement should be amended (or a new arrangement created) in due course to rectify this. It is important to note that the proposed arrangements described in this paper reflect the intent of the OCS arrangements.

Another anomaly exists at the eastern extremity of Western Australian State jurisdiction for trawl fishing. The Australian Government previously consulted with the State with a view to extending the western inshore boundary of the Great Australian Bight trawl fishery from 129 degrees to 125 degrees east longitude (note that the Western Australian/South Australian Border is at 129 degrees east longitude).

The Western Australian government agreed with this proposal and notionally returned management of trawling activity seaward of 3 nautical miles and east of 125 degrees longitude to the Australian Government. However, the agreement was not legitimised by an amendment to the OCS arrangements, and as a result, the State continues to have technical jurisdiction over trawl fishing to 129 degrees east longitude. But again, as this was not the intention of the respective Governments, the OCS arrangements require amending to reflect the intention at the time.

Therefore, despite the gazetted arrangements in the OCS providing the technical authority for the State to manage trawling activity outside this area, any arrangements made for the South Coast Trawl Fishery should specify an eastern boundary of 125 degrees east longitude, and a seaward depth contour boundary of 200m.

It should be noted that the Australian Government regulates fishing for 'blue mackerel' under the Small Pelagic Fishery, but when operating in State-managed waters (as described above) Small Pelagic Fishery operators may only trawl from a fishing boat that is also licensed to trawl under State law. This condition is currently set out in permits issued by the Australian Fisheries Management Authority for the Small Pelagic Fishery.

SECTION 5 THE EXISTING LAW

5.1 Legislation

The history of the legislation of the fishery can be traced back to notices made under the *Fisheries Act 1905* in 1987 and 1988 (see Appendix A).

Following the consideration of the South Coast Inshore Trawl Fishery Management Plan in November 1987, a notice (No. 287) under section 9 of the *Fisheries Act 1905* in respect of trawling in waters off the south coast of WA was gazetted on 30 October 1987.

In 1988, four further notices were made (No. 318, 319, 320 and 321). These prohibited dredging and regulated trawling for scallops in the waters of the Recherche Archipelago. These five notices have been variously superseded over time. The current orders are the *Trawling Prohibition (Whole of State) Notice 1992* (Notice 556 of 1992) and the *Trawling for scallops (South Coast) Notice 1992* (Notice 586 of 1992).

In addition to regulating trawling for scallops ('bottom trawling') in the Recherche Archipelago and general fish and scallop trawling, the State also regulated 'surface trawling' on the south coast of the State east of 120 degrees east longitude (near Hopetoun). This was achieved through the *Surface Trawl Net Fishery (South Coast) Notice 1992* (Notice 540 of 1992) together with the issuing of "Directions to Licensing Officers".

Upon the proclamation of the FRMA, Notice 540 continued in force as if it were an order made under Section 43 of the Act. However the "Directions to Licensing Officers" were not "transitioned" under the new Act and as a result are no longer in force.

Importantly, there are no surface trawl 'endorsements' in effect for the purpose of an exception to Notice 540. This detail is described for purposes of completeness, as the proposed fishery arrangements will regulate *all* types of trawling in the relevant waters off the south coast.

Under Notice 556 (a general 'trawl' notice which replaced/consolidated a number of notices) and Notice No. 586 (which deals specifically with fishing for scallops in the Recherche Archipelago), authorisation to operate in the fishery is effectively granted by what are described as "fishing boat licence conditions 73 and 79".

These conditions currently exclude the holder from the provisions of a number of now repealed notices, but it is generally accepted that the conditions also apply to the current trawling notices. There are, at the time of writing, a total of four licences currently endorsed with both conditions 73 and 79. The wording of the current conditions is shown in Appendix B.

5.2 License arrangements

There are four fishing boat licences that specify 'conditions' that are intended to constitute 'endorsements' for the purposes of an exception to the governing notices (orders).

The 'conditions' currently refer to superseded notices and ought to have been updated to refer to the notices that are currently in force as orders under section 43 of the FRMA. That being said, if new management arrangements are implemented then the current Section 43 orders will become redundant and can be revoked (and the licence conditions removed from the fishing boat licences).

SECTION 6 NATIVE TITLE

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

In 1999, the Department of Fisheries obtained a ‘Report for Fisheries Western Australia’ in respect of the interaction between fisheries/pearling legislation and the *Native Title Act 1993*. 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. As a result, a management plan would be considered a ‘future act’ for the purpose of the *Native Title Act 1993*.
2. Because the management plan would be covered by *Native Title Act* 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 section 64(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 of Fisheries will provide any native title party, or parties, with an opportunity to comment on the development of the proposed fishery.

SECTION 7 NATIONAL COMPETITION POLICY

Clause 5(1) of the Competition Principles Agreement 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 Competition Principles Agreement 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 prepared for each of the proposed management arrangements described in this paper. After the Minister has considered the submissions to this paper and the management options, the Minister 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 are materially different to the proposed directions listed in this paper, new 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 (ESD) 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

The Department has prepared an application for assessment of the South Coast Trawl Fishery so that the Department of Environment and Heritage (DEH) may assess the fishery against the Australian Government Guidelines for the ecologically sustainable management of fisheries. However, the application for DEH assessment of the fishery has not proceeded, pending the production of this management paper.

A successful application against these guidelines that meets requirements under Part 13A 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 FISH RESOURCES MANAGEMENT ACT 1994

There are effectively four different types of fisheries management options available under the *Fish Resources Management Act 1994* (FRMA). These are:

- Section 43 orders
- Section 251 – exclusive licences
- Regulation licences; and
- 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, review by the State Administrative Tribunal, 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, fishermen usually perceive that the level of security in Section 43 Order-managed fisheries is less than other management options.

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 of Fisheries 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.

Trawl fishing off the south coast of the State is currently managed through Section 43 Orders and specific exemptions to those orders (in the form of fishing boat licence conditions).

9.2 Section 251 - exclusive licences

There are no exclusive licences currently 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 review under the State Administrative Tribunal process. The Department of Fisheries does not advocate the use of a Section 251 licence (or licences) for the South Coast Trawl Fishery, as they do not provide for an adequate range of management controls.

9.3 Regulation licences

Management arrangements of the regulation licence type are defined in detail in the *Fish Resource Management Regulations 1995* (the Regulations). 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 under them. No statutory consultation is required if arrangements are to be revoked. The rules for review by the State Administrative Tribunal relating to the issue or variation to a licence are contained within the FRMA.

Current ‘regulation licences’ in operation 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 operators’ licences.

Regulation licences are similar to Managed Fishery Licences, except that the fishery rules are defined in the Regulations or by conditions on the licence and tend not to be as ‘adaptive’ as managed fishery rules. Consultation requirements are not presently well defined for regulation licence fisheries.

9.4 Management plans

The FRMA provides for the development of fishery management plans - effectively a set of fishery rules. Management plans can provide for a broad spectrum in the degree of sophistication in the management of the fishery.

Management plans can also define a fishery as being a “Managed Fishery”, an “Interim Managed Fishery” or a “Developmental Fishery”. The key difference between these fishery types is that management plans for “Managed Fisheries” are essentially ongoing, whereas those for “Interim Managed Fisheries” and “Developmental Fisheries” have cessation dates.

Management plans contain rules that can deal with permitted species, time and/or area closures, gear usage, transfers of entitlement and licences, variations, and cancellation of licences and also define clear processes for the management of the fishery. As a result, management plans are often perceived by commercial fishers as providing a greater level of security than other fisheries management options.

In addition, the ability to define offences against the management 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.

Statutory consultation is required for the development, amendment and revocation of Managed Fishery Management Plans.

Interim Managed Fisheries (including Developmental Fisheries) are similar to Managed Fisheries in terms of their sophistication and rules regarding transferability, variation,

cancellation, etc. However, Interim Management Fishery Management Plans have a defined end date and fewer consultation requirements in the developmental stages.

Upon the expiry of an Interim Managed Fishery Management Plan, the fishery can either cease, or new management arrangements can be adopted (such as a Managed Fishery Management Plan).

It is usually considered that the most appropriate management arrangement is an Interim Managed Fishery Management Plan where a fishery is either:

- New or of a developmental nature;
- Transitioning from management arrangements based on a mix of orders and conditions; or the
- Previous arrangements have been dubious or contentious

Moving a fishery into an interim management phase allows the management and access arrangements a period of time to settle down while the future long-term arrangements for the fishery are considered.

SECTION 10 PROPOSED MANAGEMENT ARRANGEMENTS

10.1 Legislative base

The authority to use trawl gear on the south coast of Western Australia is currently provided through conditions on fishing boat licences that serve as an 'exception' to trawling prohibition notices. The Department of Fisheries is of the view that these arrangements should be replaced with a system that provides improved management arrangements, clearly provides for the transferability of entitlements, and gives increased certainty of access for licence holders.

The South Coast Trawl Fishery has been in a developmental phase since November 1987, but because of intermittent activity it has not been a high priority for consideration for upgraded management. However, catches in the scallop component of the fishery in 2000 and subsequent years, as well as the need to provide for rational development in the fish trawl component, have pointed to a need to implement upgraded management arrangements.

A Managed Fishery or an Interim Managed Fishery would provide some level of parity in the nature of the management arrangements and processes in other scallop and fish trawling fisheries in the State. This would be beneficial (particularly if boat specifications and gear requirements are also similar) as fishing equipment could be used interchangeably between trawl fisheries on the west coast and the south coast.

In accordance with section 56(1)(b) of the FRMA, a fishery management plan must declare the fishery to be either a Managed Fishery or an Interim Managed Fishery. Interim Managed Fisheries can have lower consultation requirements in their development, and an end date for the interim plan can be specified.

An expiry date of five years after the date of gazettal of the interim plans would allow for the clarification of some outstanding Offshore Constitutional Settlement jurisdictional matters in the fishery and for the operational processes of the proposed management arrangements to be tested.

Proposal 10.1.1 That an Interim Managed Fishery Management Plan be developed for scallop fishing and fish trawl fishing off the south coast of the State.

Proposal 10.1.2 That the Interim Managed Fishery Management Plan has an expiry date that is five years after the date of gazettal of the plan.

10.2 Fishery definitions

Background

In accordance with section 56(1) of the FRMA, a management plan for a fishery must identify the fishery. This is usually achieved through describing gear that may be used, species that may be taken and the area that may be fished (or any combination of these).

The Offshore Constitutional Settlement (OCS) intends that the State have jurisdiction for trawling activity inside (i.e. on the landward side) of the 200 metre isobath, and for the Australian Government to manage trawling outside (i.e. on the seaward side) of the 200 metre isobath. Trawling for scallops between the coast and the 200 metre isobath is therefore managed by the State.

However, under the OCS, the Australian Government controls fishing for blue mackerel (including trawling for blue mackerel) inside the 200 metre isobath and seaward of State waters (typically three nautical miles from the coast).

There is also some uncertainty about jurisdictional arrangements regarding trawling activity east of 125 degrees east longitude. The boundary of the Great Australian Bight Trawl Fishery within the 200 metre isobath extends from 125 degrees east to 129 degrees east (the South Australian border - see diagram in Appendix C).

However, the OCS arrangement defining which waters are under State jurisdiction for the purpose of trawling includes the waters seaward of three nautical miles between 125 degrees and 129 degrees east longitude. Additionally, the Great Australian Bight Trawl Fishery is incorrectly defined in the OCS arrangement.

While it is intended that these issues be clarified and rectified with the Australian Government as soon as possible, the area of the South Coast Trawl fishery is proposed to reflect the intent of the OCS arrangements.

Fishing Boat Licence Condition 73 currently refers to a repealed Notice (Notice 287). Despite this, the Department accepts that the condition provides an exception to the *Trawling Prohibition (Whole of State) Notice 1992* (Notice 556). The condition allows for trawl nets to be operated off the south coast of the State east of 115 degrees east longitude. The condition does not define an eastern boundary, thus suggesting that the eastern boundary is the State border (or otherwise to the limits of State jurisdiction).

Condition 79 refers to repealed Notices (318, 319, 320 and 321). However, the Department of Fisheries accepts that the condition currently provides an exception to the *Trawling for Scallops (South Coast) Notice 1992* (Notice 586). This notice specifically refers to trawling activity in the Recherche Archipelago.

Considerations

A description of the proposed fisheries that describe the target species (finfish or scallops) and use of trawl nets on the south coast east of Cape Leeuwin would cover the areas referred to in both Notice 556 and 586. Prior to the jurisdictional issues east of 125 degrees east longitude being settled, the proposed eastern boundary of the fishery should be 125 degrees east longitude.

The capture of species other than scallops is likely to occur when operators are scallop fishing, and the capture of species other than finfish may occur when operators are fish trawl fishing. It may therefore be prudent to specify certain by-product species in the management arrangements.

In defining these by-product species, it may also be of benefit to determine the permitted overall levels of by-product that may be taken and the nature of the response should these levels be exceeded.

Proposal 10.2.1 That the South Coast Trawl Fishery be defined as fishing by means of trawl nets in the waters of the South Coast of the State between Cape Leeuwin 115 degrees 8 minutes east longitude and 125 degrees east longitude on the landward side of the 200 metre isobath.

Proposal 10.2.2 That there be two ‘classes’ of permit that allow specific types of trawl fishing activity. “Scallop class” permits to allow the use of demersal trawl gear to target scallops and “fish class” permits to allow the use of fish trawl gear to target finfish.

Proposal 10.2.3 That by-product species are identified in the management plan and management actions are developed for further consideration if by-product catch trigger limit levels are realised.

10.3 Access criteria

Background

The capacity of a fishery can be defined as, amongst other things:

- A maximum number of permits or authorisations;
- A maximum amount of permitted gear or fishing time; or
- Any combination of these things.

Establishing access criteria and management arrangements that result in an appropriate level of fishing effort is an integral part of a management plan. This section discusses the issues surrounding access criteria and the number of permits or authorisations in the fishery.

The number of fishing vessels with an authority to use trawl gear is currently constrained to the number of fishing boat licences endorsed with conditions 73 and 79. There are currently three entities holding four fishing boat licences endorsed with conditions 73 and 79.

Fishing for scallops in the Recherche Archipelago is prohibited between 1 December and 1 March inclusive each year, but at present there are no other fishing gear or time constraints for State managed trawl fishing off the south coast. Proposals regarding gear and time restrictions are discussed below.

Conditions 73 and 79 are not specific fish trawl and scallop trawl authorisations respectively. Condition 73 allows for general trawling (including scallop trawling) on the south coast of the State. Condition 79 allows for scallop trawling specifically in the Recherche Archipelago.

At present, operators can choose to fish trawl or scallop trawl under the authority of condition 73 (but not in the Recherche Archipelago) or scallop trawl under the authority of condition 79 in the Recherche Archipelago.

Considerations/options

The most logical set of access criteria for a trawl fishery interim managed fishery permit would be that, on the day before the gazettal of the management arrangements, the person making the application for the authorisation was the holder of a fishing boat licence that was endorsed with both condition 73 and 79.

To differentiate and regulate scallop fishing and fish trawl fishing effort, it may be appropriate to create two different ‘classes’ of permit within the one Interim Management Plan. One class of permit could be used to undertake scallop trawling, and another class of permit could apply to fish trawling.

The result of this arrangement, considering the current numbers of fishing vessels that are likely to meet the criteria, is that four “scallop trawl class” trawling interim managed fishery permits would be issued and four “fish trawl class” interim managed fishery permits would be issued.

Proposal 10.3.1 That a South Coast Trawl Interim Managed Fishery “scallop class” permit be issued to the holder of a fishing boat licence that has been used to take scallops in the waters of the fishery since November 1987 and is endorsed with conditions 73 and 79 on the day before the gazettal of the interim plan.

Proposal 10.3.2 That a South Coast Trawl Interim Managed Fishery “fish class” permit be issued to the holder of a fishing boat licence that has been used to take finfish in the waters of the fishery since November 1987 and is endorsed with conditions 73 and 79 on the day before the gazettal of the interim plan.

10.4 Scallop trawl - unitisation of fishing gear and fishery capacity determinations

Background

The annual catch of scallops on the south coast is highly variable. In the 2000 season, 2,722 tonnes (whole weight) of scallops was landed. The previous highest catch was 138 tonnes. It is believed that the level of scallop recruitment largely drives the variability in catches in these grounds.

Little is known about the stocks of finfish off the south coast of Western Australia and their ability to withstand (or avoid) scallop trawling effort. Due to the known variable settlement of scallops and the unknown effects of scallop trawling on other stocks, management arrangements will require flexibility to allow for an increase (or decrease if necessary) in scallop trawling effort.

Considerations

In years of very strong scallop settlement in the region, it may be beneficial to allow for a temporary increase in scallop fishing effort. Management arrangements should be flexible enough to allow for changes in the amount of gear, the number of boats and/or time available to take scallops and/or finfish.

Increasing the number of boats that may be used in the fishery (while maintaining the same number of permits) could be achieved by allowing more than one boat to fish under the authority of one permit. Each permit in the fishery could have, say, two parts. A different fishing boat could be listed against each part of the permit, and each boat would be allowed to operate when the relevant part of the permit is 'activated'.

Another useful method of providing flexibility in fishing effort is to express entitlements in units, which can have a variable value (as set from time-to-time by the Executive Director of the Department of Fisheries). Once issued, the number of units in the fishery does not change, but the value of the units may change.

For example, one unit may be equal to one fathom of headrope on a scallop trawl net. If an increase in the total amount of headrope in the scallop component of the fishery is desired to provide increased capacity to deal with a large scallop recruitment, the value of one unit could be changed from one fathom to, say, two fathoms of headrope, thus allowing more gear to be used in the fishery.

This change could also be matched with a reduction in the minimum number of units required in order to fish (through a determination made by the Executive Director). In this way, additional boats (as described above) could be permitted to operate in the fishery in years of high recruitment.

The following scenarios only apply to scallop trawl class permits. It is expected that the Executive Director would make a determination each year (or from time-to-time as appropriate) to define the unit value in terms of a length of headrope for the scallop fishery and the minimum unit holding to operate a boat in the fishery.

Scenario One

One unit = one fathom of headrope.

The headrope capacity of the fishery is 64 fathoms of headrope.

Each permit is ‘endorsed’ with 16 tradeable units.

A part of a permit must be endorsed with 16 units for that part of the permit to fish.

Permit 1	Permit 2	Permit 3	Permit 4
Part 1: 16 units	Part 1: 16 units	Part 1: 16 units	Part 1: 16 units
Part 2:	Part 2:	Part 2:	Part 2:

Outcome: One vessel could be used to fish under the authority of each of the four permits in the fishery. A maximum of four boats (each attached to Part 1 of each permit) could be used to fish.

Scenario Two

One unit = two fathoms of headrope.

The headrope capacity of the fishery is 128 fathoms of headrope.

Each permit is ‘endorsed’ with 16 tradeable units.

A part of a permit must be endorsed with 8 units for that part of the permit to fish.

Permit 1	Permit 2	Permit 3	Permit 4
Part 1: 8 units	Part 1: 8 units	Part 1: 8 units	Part 1: 8 units
Part 2: 8 units	Part 2: 8 units	Part 2: 8 units	Part 2: 8 units

Outcome: Two vessels could be used to fish under the authority of each of the four permits in the fishery. A maximum of eight vessels could be used to fish.

Proposal 10.4.1 *That for scallop fishing, the headrope length of trawl gear be unitised and that the minimum number of units required in order to fish, and the length of headrope per unit be set (through a Determination made by the Executive Director) at appropriate levels each year.*

Proposal 10.4.2 *That each interim managed fishery permit has two parts, and that it is possible for one fishing vessel to be listed against each part. A boat will be permitted to fish when its part of the licence is endorsed with the minimum number of units specified in accordance with the Determination described at 4.1.*

Proposal 10.4.3 *That a boat must not be listed on more than one scallop trawl permit*

10.5 Fish trawl - unitisation of fishing gear and fishery capacity determinations

Background

Little is known about the stocks of finfish and other mid-water species off the south coast of the State and their ability to withstand potentially full time trawling effort.

Due to the unknown effects of finfish trawling on other stocks, management arrangements should provide for flexibility to allow for an increase (or decrease if necessary) in fish trawling effort as this becomes known.

Considerations

If the potential for a mid-water blue mackerel fishery in the Small Pelagic Fishery B Zone is realised, it may be appropriate to allow for an increase in the number of fish trawl vessels (noting the requirement for vessels operating in the Small Pelagic Fishery to also have a State Trawl authorisation).

Management arrangements should be flexible enough to allow for changes in the amount of gear, the number of boats and/or time available to take finfish.

There is a potential for fish trawl gear to interact with gear being used in other commercial fisheries (i.e. the demersal gillnet and longline fishery, southern rock lobster and deep sea crab fisheries). Given this potential, and noting that there has been relatively low levels of demersal fish trawling effort (on the landward side of the 200 metre isobath) on the south coast in recent years, the Department of Fisheries intends to initially restrict the capacity of the fish trawl fishery so that only one fish trawl vessel will be allowed to operate in the South Coast Trawl fishery during the first year of the Interim Management Plan.

In subsequent years, and following an assessment of the impacts of the fish trawl fishery, the number of fish trawl vessels allowed to operate in the fishery may be increased or decreased (effectively reduced to zero) at the discretion of the Executive Director of the Department of Fisheries through the gazettal of a determination regarding unit values.

Similar to the scallop trawl component of the fishery, increasing the number of boats that may be used in the fish trawl component of the fishery (while maintaining the same number of permits) could be achieved by allowing more than one boat to fish under the authority of one permit. Each permit in the fishery could have, say, three parts. A different fishing boat could be listed against each part of the permit, and each boat would be allowed to operate when the relevant part of the permit is 'activated'.

If the number of the parts of a fish trawl permit that the Executive Director activates through a determination is less than the number of permits in the fishery, then a system for determining the order of the part (or parts) that will be allowed to operate may be appropriate. The Department of Fisheries is of the view that this may be best achieved by ranking the fish trawl permits that are issued according to historical levels of fish trawling.

For example, if the holder of fishing vessel 'A' with conditions 73 and condition 79 is issued a fish trawl permit (in accordance with Section 10.3.2) and that vessel has more

historical finfish catch than fishing vessel ‘B’ (the holder of which has also been granted a fish trawl permit), then permit A will rank higher than permit B. In this way, all of the permits in the fish trawl component of the fishery could be ranked, from permits with the most finfish history to permits with the least finfish history.

If the Executive Director determined that only one fish trawl permit ‘part’ would be allowed to fish during a certain period, then only the first part of the highest ranked permit would be allowed to fish.

If there were two parts allowed to operate, the first parts of the first and second ranked permits would be allowed to operate. If the number of parts allowed to fish is one greater than the number of permits in the fishery, then the first ranked permit would be allowed to operate two parts.

If the number of parts allowed to fish exceeds the number of permits by two, then the first and second ranked permits could operate two parts each, and so on (see Table 1)

	Part 1	Part 2	Part 3
<i>Permit ranked 1</i>	1	5	9
<i>Permit ranked 2</i>	2	6	10
<i>Permit ranked 3</i>	3	7	11
<i>Permit ranked 4</i>	4	8	12

Table 1 *Sequence of permits and additional (determined) vessels*

For the fish trawl fishery, instead of unitising the fishery, it may be more appropriate to simply restrict effort in terms of the number of hours that can be trawled by each part of a permit - this concept is discussed further in Section 10.6.

Criteria period

For the purposes of determining permit ‘rank’ in the finfish component of the fishery, it may be appropriate to consider recent finfish catch. This could include, for example, the period commencing 1 January 2000 and ending 31 December 2004.

Permit rank would be determined by assessing the total sum of live weight of all finfish that were caught under the authority of the relevant fishing boat licence in the waters of the proposed fishery during that period, and sorting the fishing boat licences from the highest total weight of finfish (the highest ranked) to the lowest total weight of finfish (the lowest rank), and ranking the permits issued according to the rank of the fishing boat licence.

The relative ranking of the permits should be permanent, and the list of rankings should be published in the *Government Gazette*.

Proposal 10.5.1 That fish trawl fishing effort be regulated by defining the number of hours that can be fished under the authority of each permit or part of a permit.

Proposal 10.5.2 That a boat must not be listed on more than one fish trawl permit.

Proposal 10.5.3 That for the first year of the Interim Management Plan, the capacity of the South Coast Fish Trawl Fishery will be set so that it is only possible for one fish trawl class vessel to operate in the fishery.

Proposal 10.5.4 That in the second and subsequent years of the Interim Management Plan, the Executive Director may (from time-to-time) determine the capacity of the fishery in terms of number of fish trawl permit parts that may operate in the fish trawl fishery.

Proposal 10.5.5 That each South Coast Trawl Interim Managed Fishery “fish class” permit be ranked according to the total live weight of finfish that was taken between 1 January 2000 and 31 December 2004 in the area of the proposed fishery by the fishing boat licence used to apply for the permit.

Proposal 10.5.6 That the relative rankings of all permits in the fishery be published in the Government Gazette, and the list would not be subject to change.

Proposal 10.5.7 That the order in which any additional permits (and parts of permits) are allowed to operate in the fish trawl fishery will be determined according to permit rank.

10.6 Determination of closed waters, seasons, fishing time and zoning

Background

Notice 586 currently prohibits the take of scallops in the Recherche Archipelago every year between 1 December and 31 March of the next year.

Fisheries Management Paper No. 13 suggests for scallop fishing on the South Coast that “some closed season is considered wise to take into account the loss of condition during the post spawning period across the summer months.”

Other trawl fisheries in the State operate effectively using a system whereby areas of the fishery can be closed by the Executive Director of the Department of Fisheries through a determination made in the *Government Gazette*.

Concern has previously been expressed about the effect of trawling on wetline and shark fishing operations by direct competition or the taking and subsequent discarding of juvenile or undersized fish. In addition, some South Coast Purse Seine fishers are of the

view that scallop trawling in certain areas has affected pilchard catches and pilchard quality.

Fish catch by scallop trawlers is usually minimal because of the large mesh size (100 millimetre mesh size - small fish can escape through the net) and the relatively low towing speed required for scallop trawling (which allows larger fish to swim forward and out of the net).

Considerations

The catch of other fish using trawl equipment will need to be closely monitored to ensure that conflict with other fisheries does not eventuate. Management arrangements could define permanent area closures for fish trawling and/or scallop trawling, or areas could be defined and the Executive Director (of the Department of Fisheries) could determine each year the areas that can be fished, and areas in which fishing is restricted, so as to minimise the effect of trawling on other managed fisheries.

The Department of Fisheries is currently reviewing the management of commercial shark fishing with a view to limiting it to the recognised commercial shark fisheries (i.e. the demersal gillnet and longline fisheries). If so, the trawl fisheries will also need to be prohibited from retaining any sharks taken in trawl nets.

Similarly, the Department is reviewing the management of crustacean fishing off the south coast with a view to providing for the commercial take of all crustacean species (except prawns) under a comprehensive management arrangement for a South Coast Crustacean Fishery. In any case, trawl fishers should be prohibited from retaining any rock lobsters or deep sea crabs taken in trawl nets.

Industry members have previously suggested that fish trawling could be prohibited on the landward side of the 100m isobath. This would ensure that fish trawling activity occurs well away from the coast and population centres, and the potential for conflict with the users of inshore fish resources would be minimised.

Scallop trawling conflict could similarly be minimised through prohibiting fishing for scallops in areas that have not typically yielded scallops (i.e. west of 118° east longitude), and also within a certain distance (say eight nautical miles) of selected towns and population centres (see maps in Appendix D).

Proposal 10.6.1 That trawling for scallops be prohibited in the area of the Recherche Archipelago (as currently defined in Notice 586) between 1 December and 31 March each year.

Proposal 10.6.2 That fish trawl fishing be restricted to waters seaward of the 100 metre isobath. The waters seaward of the 100 metre isobath would be defined by describing a number of lines that closely follow the 100 metre isobath between 115 degrees east and 125 degrees east longitude.

Proposal 10.6.3 *That scallop fishing be prohibited in the waters of the fishery west of 118° east longitude, and also waters that are within approximately eight nautical miles of selected towns and population centres including Esperance, Hopetoun, Bremer Bay and Cheynes Beach. These areas would be defined by describing a rectangular area immediately adjacent and offshore to the town.*

Proposal 10.6.4 *That for both fish class permits and/or scallop class permits, additional areas can be closed by a determination made by the Executive Director and published in the Government Gazette.*

Proposal 10.6.5 *That the Executive Director may (from time-to-time) through a determination published in the Gazette, define the total number of hours that may be fished by a vessel operating under the authority of an active fish trawl permit.*

10.7 Scallop fishing gear restrictions

Background

Fisheries Management Paper No. 13 states:

“In any trawl fishery, the major tool to prevent uncontrolled effort expansion is to specify clearly the gear which may be used. Such control is especially important if the size of the available resource is not known as it allows for an adjustment in effort at a later stage.”

Rules regarding gear in other scallop trawl fisheries in Western Australia include:

- Restrictions in headrope length (and its comparison to ground rope length);
- Sweep length;
- Mesh size (throughout and cod end);
- Otter boards; and
- Chains.

There are currently no gear restrictions for trawl fishing off the south coast of Western Australia.

Considerations

Some level of parity with other scallop trawl fisheries around Western Australia would be beneficial in terms of gear already used in these other fisheries being able to also be used in the scallop component of the proposed South Coast Trawl Fishery.

The type of gear described below has been operated successfully in other scallop trawl fisheries in the State, and the Department of Fisheries has experience in managing and

enforcing trawling effort when such gear is used. The gear would also be compatible with existing gear and different gear would not be required to be constructed for scallop fishing on the south coast.

The use of Bycatch Reduction Devices (BRDs) is now mandatory in other trawl fisheries operating in the State. Although the capture of turtles is unlikely in the proposed fisheries, it may be appropriate that vessels operating in the fisheries are also required to operate using appropriate BRDs, as such gear is useful for keeping sharks and rays out of the catch.

Proposal 10.7.1 That the ground rope length be equal to or longer than the head rope length.

Proposal 10.7.2 That head rope sweep lengths are equal to or shorter than ground rope sweep lengths.

Proposal 10.7.3 That head rope sweeps and ground rope sweeps are less than two metres in length.

Proposal 10.7.4- That gear entitlement be defined by the number of units in that “part” of the permit, but that a maximum usage for any boat be 24 fathoms.

Proposal 10.7.5 -That otter boards do not exceed 2.29 metres in length and 0.91 metres in breadth.

Proposal 10.7.6 -That one ground chain per net be permitted, with links not exceeding 10mm in diameter.

Proposal 10.7.7 -That west of 121 degrees 30 minutes east longitude, a minimum mesh size of 100mm be used when trawling.

Proposal 10.7.8 - That east of 121 degrees 30 minutes east longitude, a minimum mesh size of 50mm be used when trawling.

Proposal 10.7.9 – That the use of Bycatch Reduction Devices (BRDs) similar to other State trawl fisheries be required in order to operate in the fishery.

10.8 Fish trawl fishing gear restrictions

Background

The Australian Fisheries Management Authority imposes few mid-water trawling gear restrictions on vessels working in the Australian Government’s Small Pelagic Fishery (SPF). The fishery is instead regulated mainly through the use of catch trigger limits.

If the limit is triggered a review of the status of the fishery is undertaken and a decision is made whether to allow continued fishing or close the fishery. The Australian Government is currently reviewing the management of the Small Pelagic Fishery. For further information, please refer to the AFMA website at <http://www.afma.gov.au>

For the purpose of consistency across jurisdictions, it is appropriate to introduce fish trawl fishing legislation that is at least compatible with the conditions imposed by the Australian Government on SPF vessels. However, as there are very few gear restrictions in place for

SPF vessels, any State imposed restrictions will be more restrictive than restrictions placed on vessels operating in the SPF.

Western Australia is experienced in managing demersal fish trawl fishing using input effort (time) controls in the Pilbara Fish Trawl Interim Managed Fishery. Compatible with these input controls are gear size limitations. The Department of Fisheries intends to propose that similar demersal fish trawl gear restrictions that currently exist in the Pilbara Fish Trawl Fishery also be applied to vessels operating under the authority of a fish trawl class permit in the South Coast Trawl Fishery.

With regard to mid-water trawling in the fishery, the species that will probably be targeted using this method is blue mackerel (a species managed by the Australian Fisheries Management Authority). A minimum mesh size of 50 millimetres when using mid-water trawl gear would enable commercial fishers to take this species.

Mid-water trawl gear would be differentiated from demersal trawl gear through the presence of ‘bobbin’ which are spherical devices attached to the lead line that prevent demersal fish trawl nets from being damaged on (and damaging) the sea floor.

Proposal 10.8.1 That nets used under the authority of a fish trawl class permit in the fishery must have a minimum mesh size of not less than 100 millimetres when a bobbin is (or bobbins are) attached to the foot rope of the net

Proposal 10.8.2 - That nets used under the authority of a fish trawl class permit in the fishery must have a minimum mesh size of not less than 50 millimetres when there are no bobbins attached to the foot rope of the net.

Proposal 10.8.3 – That the headrope length of a demersal fish trawl net used under the authority of a fish trawl class permit must not exceed 36.58 metres.

Proposal 10.8.4 – That the overall length of the demersal fish trawl gear including sweeps, bridles and headropes must not exceed 274.32 metres

Proposal 10.8.5 – That the diameter of any bobbin attached to a ground rope must not be more than 350 millimetres.

10.9 General trawl fishing requirements

Background

Automatic Location Communicators (ALCs) are part of a Vessel Monitoring System (VMS) and are increasingly being used in trawl fisheries around Western Australia to better, and more cost effectively, ensure compliance with area closures. In the case of the Pilbara Fish Trawl Managed fishery, ALCs are also used to manage effort in the fishery (i.e. trawling for a defined number of hours in a particular area).

Regulation 55A of the *Fish Resources Management Regulations 1995* describes the requirements relating to ALCs and provides the power for the Executive Director (of the Department of Fisheries) to require the installation and service of ALCs. The installation of an ALC can also be required as part of a management plan.

As per Regulation 55A, the Department of Fisheries has approved a range of ALCs. A vessel that is using VMS requires a radio transceiver device, which is capable of fixing a position. An automated reporting system controls the transmission of the position data, and possibly other data, by the transceiver using a satellite-linked communications system which can be received by a Department of Fisheries' monitoring station.

The cost of this hardware varies depending on the type of equipment, the supplier and the installer. Generally though, a transceiver will cost in the vicinity of \$5,000 (although there are different models that may cost slightly more or less). A Windows user interface for the supporting computer called Easymail is available free of charge.

A data terminal (or computer) can vary greatly in cost, depending on the user's requirements, but a basic model to conduct basic transmission will cost from \$600. Installation costs will range depending on the supplier and the supplier's location, as well as the condition of power supply on the boat. The Department of Fisheries estimates the installation cost to range between \$500 and \$1,000.

Currently the costs involved in receiving position reports from vessels via satellite are borne by the Department of Fisheries. The costs incurred by any communications initiated by the vessel operator (such as and receiving or sending messages and nominations) are the responsibility of that operator.

The current cost of sending a message via a VMS is approximately \$0.01 per character. Any costs incurred for technical repairs to VMS installations on a vessel are the responsibility of the vessel operator.

VMS is currently used in the Northern Demersal Scale Fish Fishery, Pilbara Trap Fishery, Pilbara Trawl Fishery, Shark Bay Prawn Fishery, Shark Bay Scallop Fishery, Exmouth Gulf Prawn Fishery, Onslow, Nickol Bay, Broome and Kimberley Prawn Fisheries, and the Abrolhos Islands and Mid-West Trawl Fishery. Nomination arrangements that allow for boats to enter and/or pass through closed areas are also defined in the management plans for these fisheries.

Considerations

Vessels that will be used in the South Coast Trawl Fishery are likely to be already fitted with ALCs, given their likely involvement with trawl fisheries in other parts of the State. The use of such equipment (noting the limited Department of Fisheries patrol boat capacity on the south coast) will help to ensure compliance with fishery rules in a cost effective manner.

Proposals in Section 10.4 and Section 10.5 include not allowing a vessel to be listed against two permits of the same class in the fishery (i.e. two fish trawl class permits). However, the Department of Fisheries does not propose to prevent vessels from being listed on two different types of permit (i.e. a scallop trawl class permit and a fish trawl class permit), so long as there is a requirement for the operator of the vessel to nominate to the Department which class of permit they intend to operate prior to leaving port.

- Proposal 10.9.1** *A boat must not be used in the fishery unless an Automatic Location Communicator and data terminal capable of transmitting the vessel's location and general course of direction is installed and in working order.*
- Proposal 10.9.2** *That the same protocols currently required in other Western Australian trawl fisheries regarding nominations to enter the fishery and entering and/or passing through closed areas be adopted.*
- Proposal 10.9.3** *That if a vessel is endorsed on more than one type of permit (e.g. both a scallop trawl and a fish trawl permit), then the operator of that vessel must nominate to the Department of Fisheries as to which permit that they intend to operate prior to leaving port.*

10.10 Maximum boat size

Background

Boats used in other trawl fisheries in Western Australia are currently required to be equal to, or less than, 375 boat units. This limit was originally established to ensure that fishing effort did not increase inappropriately due to increases in boat size or power, and it also ensured that boats would qualify for the Australian Government's boat building subsidy.

However, the Department of Fisheries has recognised that the accurate calculation of boat units can be complicated, and has sought to develop alternative boat size measurements that can be more efficiently enforced, while maintaining appropriate restrictions on potential effort levels in trawl fisheries.

Considerations

To ensure equity with other trawl managed fisheries in the State and to encourage the use of South Coast Trawl Fishery vessels in other State and Commonwealth managed trawl fisheries, it is appropriate that similar boat size rules be included in the management of both the scallop and fish trawl components of the proposed South Coast Trawl fishery.

The Department of Fisheries has been investigating the use of the overall (measured) length of a vessel as an alternative to boat units in scallop and prawn trawl fisheries. The following scallop trawl fishing boat size proposal is consistent with likely new vessel size restrictions for vessels operating in other state scallop trawl fisheries.

With regard to fish trawling, there are currently no vessel size restrictions in the Small Pelagic Fishery, but the Australian Fisheries Management Authority has frozen boat nominations in that fishery. The result of this is that no new boats may be nominated on permits in the fishery. However, this may change when more comprehensive management arrangements are in place for that fishery.

Fish trawl fishing, particularly mid-water trawling, requires larger boats with increased power in comparison to scallop trawl fishing, if the fishing operation is to be successful. To restrict fish trawl vessels to a particular size or engine capacity (e.g. the 375 rule) would effectively prevent vessels from also being used in the Commonwealth Small Pelagic

Fishery, as it is highly unlikely that smaller, less powerful vessels would be able to trawl fast enough to take fast swimming species such as blue mackerel. The largest boat currently endorsed to trawl in the waters off the south coast is 32 metres in length.

Proposal 10.10.1 That the maximum overall (measured) length of a vessel endorsed on a scallop class permit operating up to 24 fathoms of trawl net be 24.99 metres.

Proposal 10.10.2 That there be no maximum overall (measured) length restrictions for scallop class vessels that are operating more than 24 fathoms of net.

Proposal 10.10.3 That the maximum overall (measured) length of a fish class vessel be no more than 32 metres.

10.11 Offences and major provisions

Section 75 of the *Fish Resources Management Act 1994* (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. Any provision of a management plan can be defined as a major provision, but in practice only those provisions of higher consequence (if contravened) are defined as major provisions.

Please note that regardless of what “part” of a permit is being exercised when a major provision of the management plan is contravened, any resulting record of conviction will be recorded on the register in respect of the relevant Interim Managed Fishery Permit.

Proposal 10.11.1 That for the purposes of Section 75 of the FRMA, the major provisions of the interim management plans be those relating to:

- ***Fishing without a permit.***
- ***Selling, dealing or attempting to sell or deal in fish taken in contravention of the interim plan.***
- ***Fishing with an unauthorised boat.***
- ***Fishing in closed waters (including fishing out of season).***
- ***Fishing with gear in excess of entitlement.***
- ***Not conforming to other gear requirements.***
- ***Failure to nominate if required.***

10.12 Amendments, revocations and variations

If an interim management plans is implemented for the South Coast Trawl Fishery, the Department of Fisheries considers it appropriate to revoke any legislation that would be effectively been made redundant by the arrangements.

This would also include the variation of current fishing boat licences to remove conditions 73 and 79.

Proposal 10.12.1 That Notice 556 of 1993 be revoked.

Proposal 10.12.2 That Notice 586 of 1992 be revoked.

Proposal 10.12.3 That all relevant fishing boat licences in the State be varied to remove conditions 73 and 79.

10.13 Transferability considerations and permit cancellation

Transfer of permits

Section 140(2)(b) of the *Fish Resources Management Act 1994* (FRMA) provides for the Executive Director (of the Department of Fisheries) to refuse to transfer an authorization or part of an entitlement “on any other ground specifies 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 Coast Trawl permits (including fish trawl and scallop trawl class permits) at this time.

Transfer of units of entitlement

The Department of Fisheries intends to allow the permanent and/or temporary transfer of scallop trawl units to another permit in the scallop trawl fishery. The power for the Minister to include such a provision in a management plan is given in section 141 of the FRMA.

These measures should allow the temporary transfer of units to another permit. At the end of the licensing year, all of the temporarily transferred units would automatically revert back to the permit on which they are permanently endorsed.

Proposal 10.13.1 That the proposed 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 plan.

Proposal 10.13.2 That the temporary transfer of scallop units of entitlement be provided for in the interim plan.

10.14 Fees

Other minor commercial fisheries in Western Australia contribute towards the costs of management, research and compliance activities by paying an annual fee. The fee will be calculated in accordance with the process used for other minor commercial fisheries in the State, as agreed by the Minister.

Proposal 10.14.1 Annual access fees for this fishery will be calculated in accordance with the process used for other minor commercial fisheries in the State, as agreed by the Minister.

SECTION 11 REFERENCES

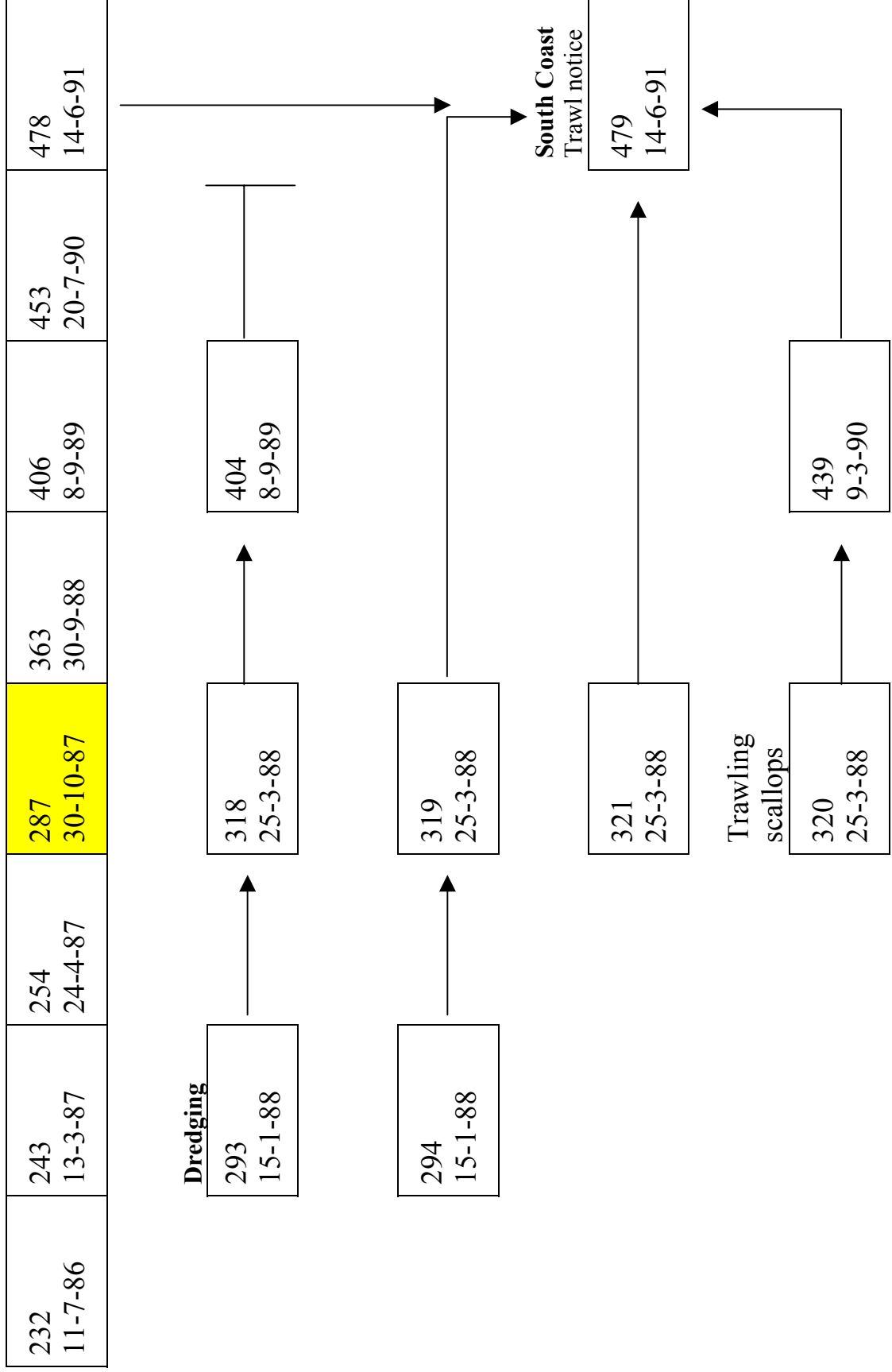
Brayford, H and Lyon, G (1996). *Offshore Constitutional Settlement*. Fisheries Management Paper No 77. Fisheries Department of Western Australia, June 1996. Perth WA. 46pp

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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.

APPENDIX A CHRONOLOGICAL HISTORY OF NOTICES – SOUTH COAST TRAWL



APPENDIX B CONDITIONS 73 & 79

Condition 73

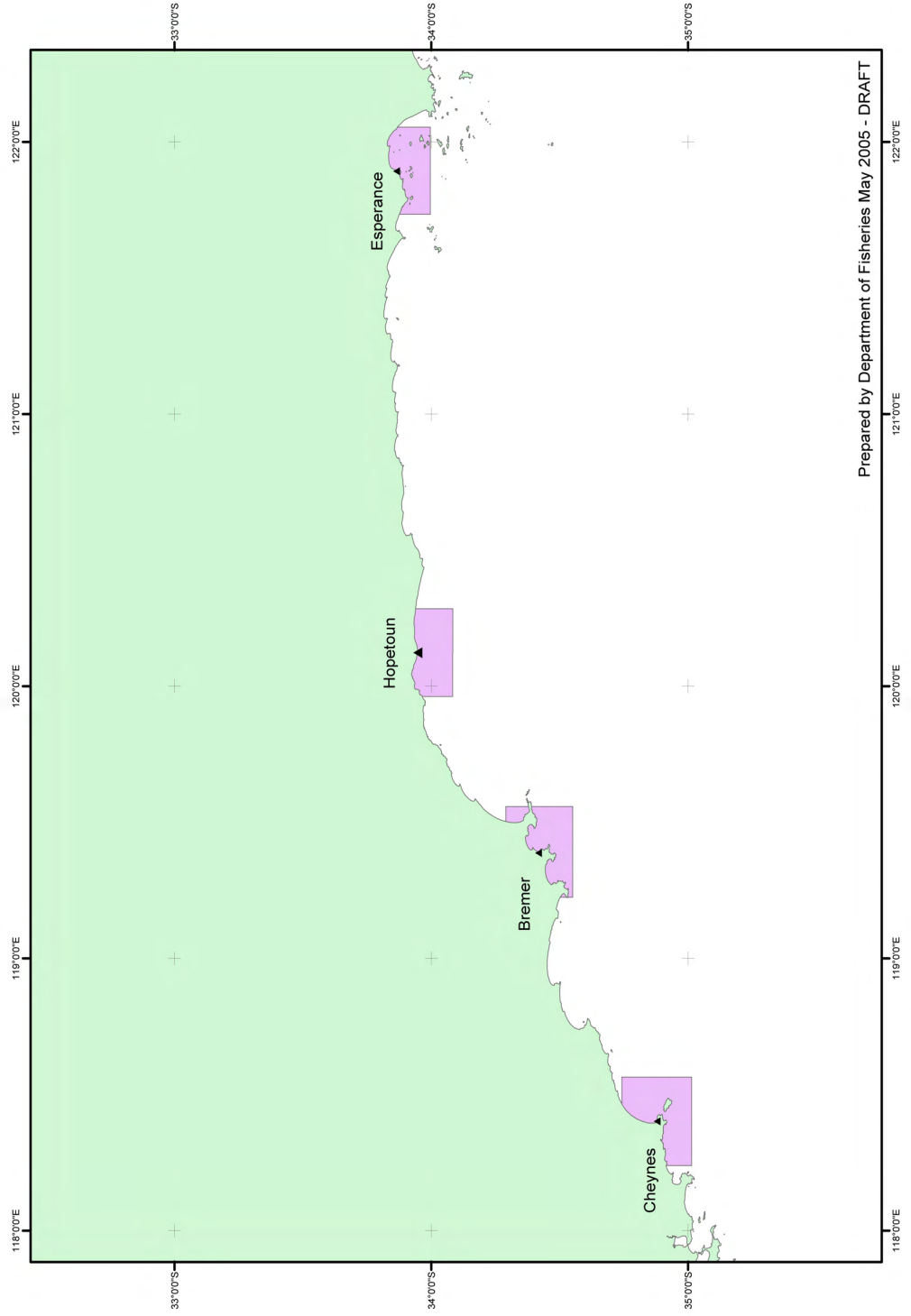
“In accordance with Fisheries Notice No 287 Section 12 the vessel named herein is authorised to operate trawl nets off the South Coast of W.A. east of 115 degrees east longitude.”

Condition 79

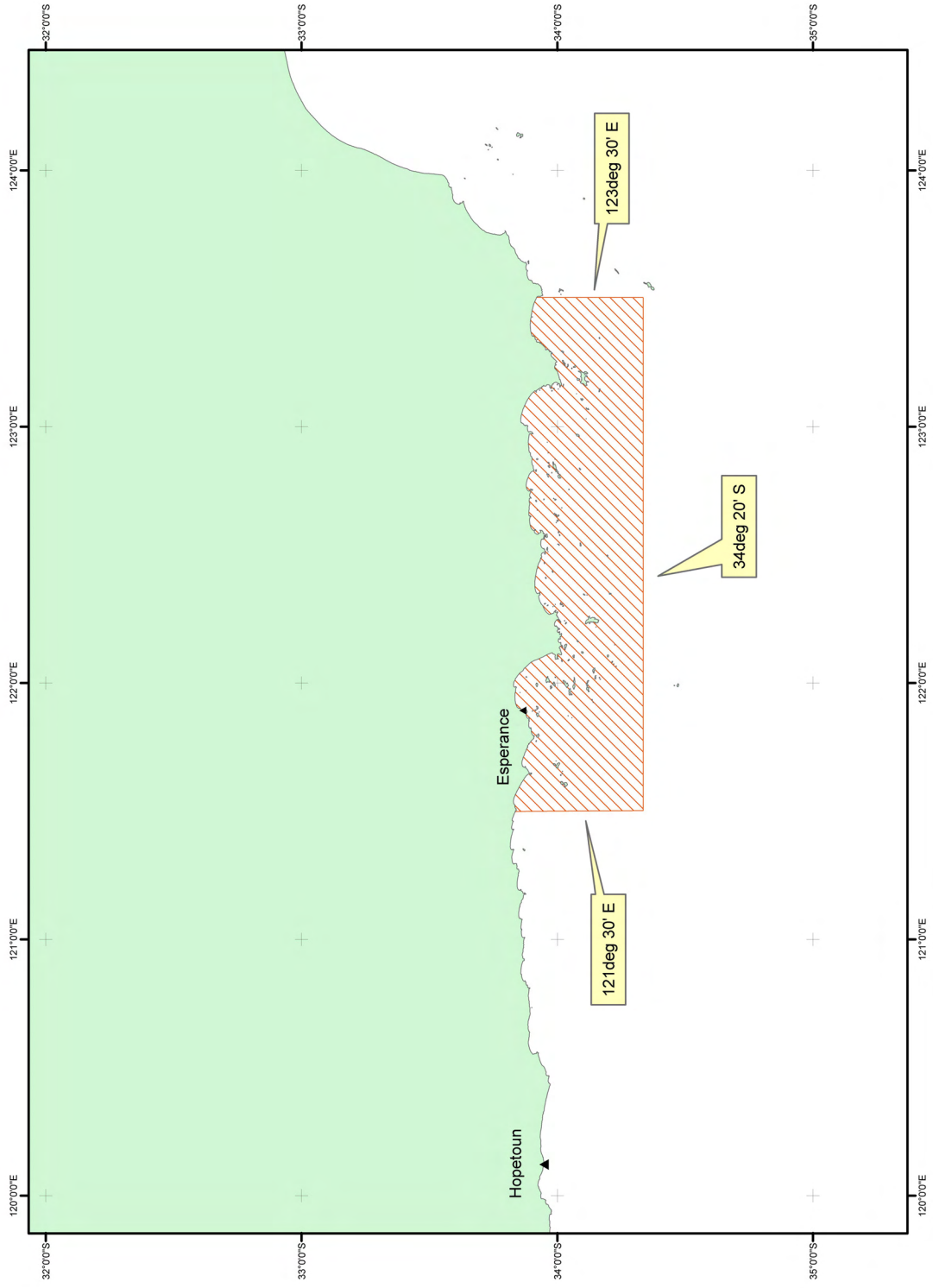
“In accordance with Fisheries Notice numbers 318, 319, 320 and 321 the vessel named herein is authorised to demersal (bottom) trawl for scallops in the Recherche Archipelago.”

APPENDIX C DIAGRAMS

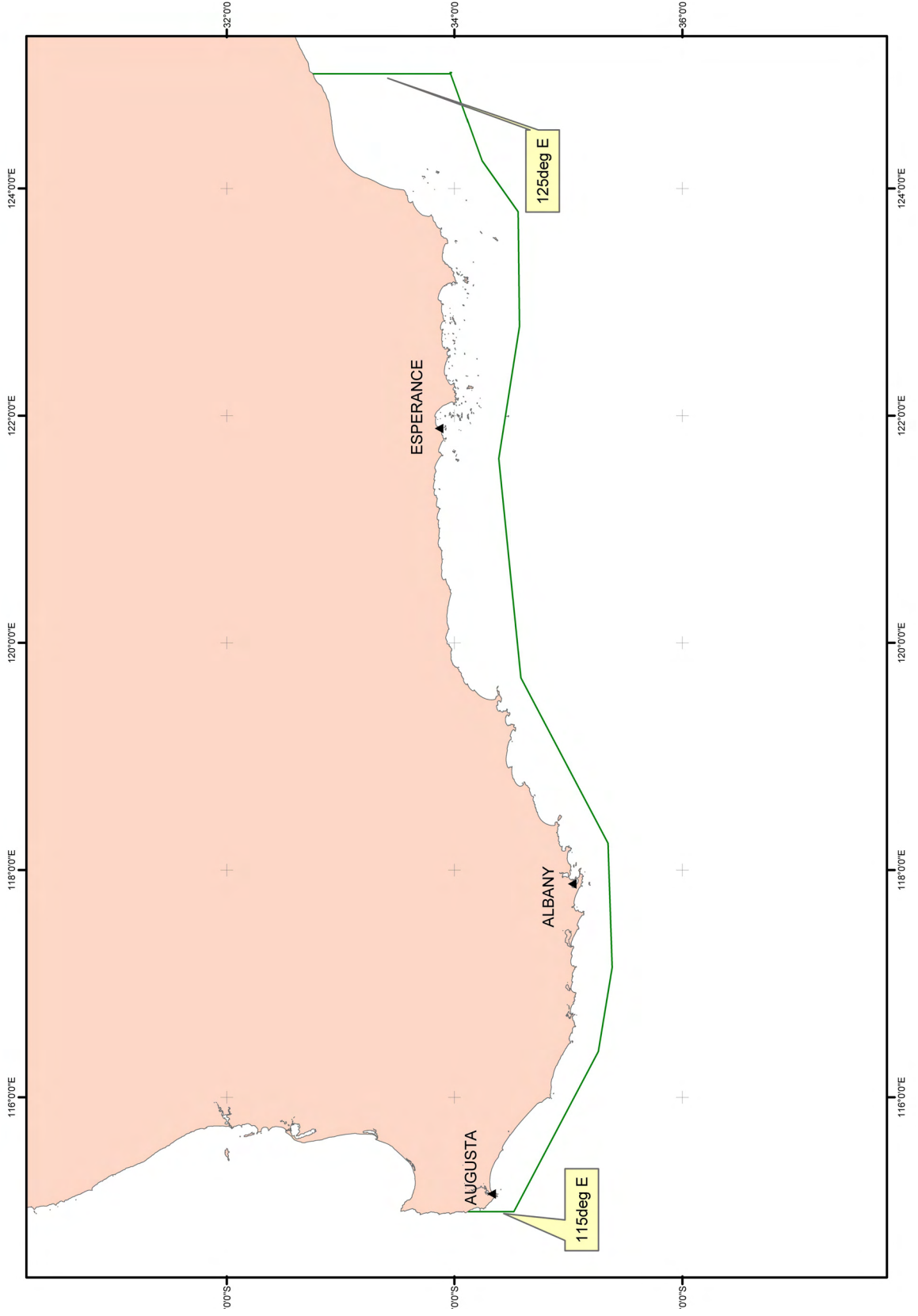
Proposed scallop fishing closures



Proposed Recherche Archipelago Seasonal Closure



Proposed fish trawl closure



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- No. 1** The Report of the Southern Western Australian Shark Working Group. Chairman P. Millington (1986)
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- 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).
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- 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)
- No. 9** Western Rock Lobster Industry Compensation Study. Arthur Young Services (1987)
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- No. 11** The Shark Bay Scallop Fishery. L. Joll (1987)
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- No. 25** Rock Lobster Industry Advisory Committee report to the Minister for Fisheries November 1988. (1989)
- No. 26** A report on marron fishing in Western Australia. Chairman Doug Wenn MLC (1989)
- No. 27** A review of the Shark Bay pearling industry. Dr D.A. Hancock, (1989)
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- No. 29** Distribution and marketing of Western Australian rock lobster. P. Monaghan (1989)
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- No. 31** Rock Lobster Industry Advisory Committee report to the Hon Minister for Fisheries September 1989. (1989)
- No. 32** Fishing Licences as security for loans. P. Rogers (1989)
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- No. 42** Appendix to the final report of the Recreational Fishing Advisory Committee. (1991)
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- 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. 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]
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- No. 142** Fisheries Environmental Management Plan for the Gascoyne Region (June 2002)
- No. 143** Western Rock Lobster. Discussion paper for seasons 2001/2002 and 2002/2003 (July 2000)
- 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*)
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- No. 163** Review of recreational take of coral in Western Australia – a discussion paper October 2002.
- No. 164** Report of the Mackerel Independent Advisory Panel to the Executive Director, Department of Fisheries, on criteria for access to, and management arrangements for, the proposed Mackerel Fishery (Interim) Management Plan (November 2002)
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- No. 168** Aboriginal Fishing Strategy: Report to the Minister for Agriculture, Forestry and Fisheries by the Hon E. M. Franklyn QC, Chairman of the Aboriginal Fishing Strategy Working Group (May 2003)
- No. 169** Hardy Inlet discussion paper (February 2004)
- No. 170** Management of the proposed Geographe Bay Blue Swimmer and Sand Crab Managed Fishery. By Jane Borg and Cathy Campbell (August 2003)
- No. 171** Draft Aquaculture Plan for Shark Bay (April 2004)
- No. 172** Draft Aquaculture Plan for Exmouth Gulf (April 2004)
- No. 173** Draft Plan of Management for the proposed Point Quobba Fish Habitat Protection Area (August 2003)
- No. 174** Translocation of Golden Perch, Murray Cod and Australian Bass into and within Western Australia for the Purposes of Recreational Stocking, Domestic Stocking and Commercial and Non-commercial Aquaculture (December 2003)
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- No. 184** South West Beach Seine Management Discussion Paper
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