

This compilation was prepared taking into account amendments up to and including the Exmouth Gulf Prawn Fishery Management Plan Amendment 2004 published in GG # 132 of 27/07/2004

FISHERIES ACT 1905  
Exmouth Gulf Prawn Limited Entry Fishery Notice 1989  
Arrangement

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FISHERIES ACT 1905  
Exmouth Gulf Prawn Limited Entry Fishery Notice 1989  
Notice No. 394

MADE by the Minister under section 32.

**Citation**

1. This notice, being a management plan under the Act, may be cited as the Exmouth Gulf Prawn Management Plan 1989 and hereafter in this management plan is referred to as “this plan”.

**Commencement**

2. This plan shall come into operation on the day on which it is published in the *Gazette*.

**Interpretation**

3. In this plan unless the contrary intention appears —  
“ALC” means an Automatic Location Communicator as defined in regulation 55A of the regulations that is capable of transmitting to the Executive Director at any time accurate information as to the geographical position, course and speed or the authorised boat;

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- "approved directions for use" means the directions for use of an ALC given by the Executive Director in a notice in writing to the master of an authorised boat or a licence holder;
- "area" means an area described in item 2 of the Schedule;
- "boat" means a boat the name and licensed fishing boat number of which are contained in a licence in accordance with clause 9.
- "boat units" means boat units calculated in accordance with clause 15;
- "calendar year" means the period of twelve months commencing on each first day in January and ending on the last day of the next December;
- "closed waters" means any waters of the Fishery in which fishing is prohibited;
- "Fishery" means *the Exmouth Gulf Prawn Managed Fishery* declared under clause 4;
- "headrope length" means the distance measured along the headrope from where the otter trawl net attaches to one end of the headrope to where it attaches to the other end of the headrope;
- "Joint Trawl Management Advisory Committee " means the advisory committee established by the Minister under section 41 of the *Fish Resources Management Act 1994* on 8 January 2003;
- "licence" means a managed fishery licence which authorises a person to fish for prawns in the Fishery;
- "nursery" means a part of the Fishery as described in Item 2 of the schedule.
- "otter board" means one of the boards used on an otter trawl net to keep the mouth of the net at maximum width while under tow;
- "prawns" means all species of decapod crustacea of the family Penaeidae;
- "regulations" means the *Fish Resources Management Regulations 1995*;
- "standard trawl net" means an otter trawl net with a headrope length exceeding five metres, but not exceeding 13.72 metres;
- "stream" means to tow a trawl net on the surface of the water with the cod end open;
- "tickler chain" means a single length of chain with no attachments other than to an otter board;
- "total fee" means the fee as specified in item 3(8) of Part 3 of Schedule 1 of the regulations;
- "try net" means an otter trawl net with a headrope length not exceeding five metres.
- "underway" means that a boat is not at anchor, or made fast to the shore or aground.

#### **Declaration of managed fishery**

4. (1) The fishing for prawns, previously declared under the repealed Act to constitute a limited entry fishery in the waters described in item 1 of the Schedule and taken to be a managed fishery under item 8 of Schedule 3 of the Act, is a managed fishery and may be referred to as the *Exmouth Gulf Prawn Managed Fishery*.
- (2) The waters referred to in subclause (1) shall be divided into areas as described in item 2 of the Schedule.

#### **Prohibition on fishing for prawns**

5. (1) Subject to subclause (2), a person shall not fish for prawns in the Fishery other than –
- (a) in accordance with this plan; and
  - (b) under the authority of a licence.
- (2) A person fishing in accordance with the Act for a non commercial purpose may fish for prawns in the waters described in Item 1 of the Schedule.

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**Prohibition on selling or dealing**

6. A person shall not sell or deal or attempt to sell or deal in any way with prawns taken in contravention of this plan.

**Criteria to determine the boats which may operate in the Fishery**

7. The criteria that shall be applied to determine the boats which may operate in the Fishery are —

- (a) that immediately before the coming into operation of this notice the owner or person in charge of a boat was the holder of a licence authorising the boat to be used to take prawns in the Exmouth Gulf Prawn Fishery from 20 March 1988 to 22 November 1988; or
- (b) that the boat replaces a boat to which paragraph (a) applied.

**Details on licence**

9. A licence shall contain the following details —

- (a) the name and licensed fishing boat number in respect to which it is issued;
- (b) the name and address of the owner or licensee of that boat;
- (c) the licence number;
- (d) the day of issue;
- (e) the period for which the licence is valid; and
- (f) any conditions imposed on the licence.

**Closure of the Fishery**

10. (1) A person acting under the authority of a licence must not fish for prawns at any time in any part of the Fishery other than in the parts, and at the permitted dates and times, specified in a notice in writing by the Executive Director made in accordance with subclause (2).
- (2) Where the Executive Director is of the opinion that it is in the better interests of the Fishery to do so, the Executive Director may by notice in writing to all licence holders, —
- (a) prohibit fishing for prawns in the Fishery or in any part of the Fishery; or
  - (b) permit fishing for prawns in an area or part of an area of the Fishery other than the area described in Item 2 of the Schedule.
- (3) The provisions of a notice made in accordance with subclause (2) may be made to apply at all times or at any specified time.

**Prohibition on use of certain fishing gear**

11. (1) A person must not fish in the Fishery from a fishing boat specified in a licence by the use of —
- (a) an otter trawl net which is not a standard trawl net or a try net; or
  - (b) more than two standard trawl nets and one try net at any one time.
- (2) A person must not use a standard trawl net which has attached to it -
- (a) more than two otter boards;
  - (b) an otter board which is more than 229 centimetres in length;
  - (c) an otter board which is more than 91 centimetres in breadth;
  - (d) an otter board which has shoes which are more than 150 millimetres in width or 25 millimetres in depth;
  - (e) more than one ground chain; or
  - (f) a ground chain which is made of links which are greater than 10 millimetres in diameter.
- (3) A person must not use a standard trawl net which has attached to it an otter board unless the otter board is attached to an end of the headrope of the standard trawl net.

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- (4) A person must not use a standard trawl net in conjunction with –
  - (a) more than one tickler chain; or
  - (b) a tickler chain which is made of links which are greater than 10 millimetres in diameter
- (5) A person must not use a trawl net which has attached to it -
  - (a) more than two otter boards; or
  - (b) an otter board which is more than 914 millimetres in length or 610 millimetres in breadth.

#### **Stowage of otter boards and otter trawl nets**

- 12.** (1) Otter boards, warp wires and otter trawl nets carried or attached to any boat shall be secured to that boat and kept out of the water –
- (a) between 0800 and 1800 hours each day in areas of the Fishery open to the taking of prawns; and
  - (b) at all times in areas of the Fishery closed to the taking of prawns.
- (2) Boats are exempted from the provisions of this clause when trialling gear in the area of waters described in Item 3 of the Schedule and provided that –
- (a) the codend is open when nets are being trialled;
  - (b) no prawns are held on board the boat; and
  - (c) trials are only undertaken during the hours of daylight.
- (3) Trialling of gear in the area of waters described in Item 3 of the Schedule may only commence 14 days prior to the opening of the Fishery.
- (4) Notwithstanding the provisions of subclause (1) paragraph (a) a person acting under the authority of a licence may have otter boards, warp wires and otter trawl nets in the water between 0800 and 1800 hours on any day in a part of the Fishery open to fishing for prawns provided –
- (a) that a notice made by the Executive Director in accordance with clause 10 permits fishing for prawns during those hours in that part of the Fishery; and
  - (b) the person is fishing in accordance with that notice.
- (5) Notwithstanding the provisions of subclause (1)(a), a person authorised to fish in the Fishery by a licence may stream otter trawl nets between 0800 and 0900 hours on any day in an area of the Fishery that was open to fishing earlier on that day.

#### **Transfer of licence**

- 13.** Notwithstanding the provisions of clause 20 and for the purposes of section 140(2) of the Act, if the total fee for a licence has not been paid that shall be grounds on which the Executive Director may refuse to transfer that licence.

#### **Boat replacement**

- 15.** (1) For the purpose of this clause —
- "B" means "breadth" as defined in the Code;
  - "D" means "depth" as defined in the Code;
  - "ML" means "measured length" as defined in the Code measured in accordance with Appendix A to Section 1 of the Code;
  - "Code" means the Uniform Shipping Laws Code adopted by the Marine and Ports Council of Australia and published in the *Commonwealth of Australia Gazette* on 11 May 1981;
  - "IEP" is installed engine power in kilowatts of the boat's engine as certified by the supplier.

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(2) Subject to the prior written approval of the Director a boat may be replaced by a boat provided that the replacement boat does not exceed 375 boat units calculated in accordance with the following formula —

$$\frac{ML \times B \times D \times 0.6}{2.83} + IEP$$

#### **Boat modification**

**16.** The owner of a boat shall not, without the prior written approval of the Director, repower the boat by —

- (a) changing the configuration of the existing engine, gearbox, propeller, propeller shaft or other components; or
- (b) installing a new engine.

#### **Requirement for the installation of an Automatic Location Communicator.**

**16A.** (1) For the purpose of this clause “approved” and “approved person” have the same meaning as provided for in regulation 55A of the regulations.

(2) A person must not use a boat to operate in the Fishery unless –

- (a) an ALC has been installed on that boat in accordance with the approved directions for use and by an approved person;
- (b) the ALC has been serviced in accordance with the approved directions for use, by an approved person and at intervals specified by the Executive Director in the approved directions for use;
- (c) the person has with them a legible copy of the approved directions for use; and
- (d) the ALC is used in the manner specified in the approved directions for use.

(3) It is a condition of a licence that the licence holder must not use a boat to operate in the Fishery unless-

- (a) an ALC is installed on that boat;
- (b) the ALC is serviced in accordance with the approved directions for use, by an approved person and at intervals specified by the Executive Director in the approved directions for use; and
- (c) when the ALC is used it is used in the manner specified in the approved directions for use.

(4) It is a condition of a licence that regulation 55C of the regulations is complied with at all times.

(5) For the purpose of this clause, if a person uses a boat on behalf of another person they are both taken to have so used the boat.

#### **Presence in the Fishery**

**16B.** (1) The master of a boat must, when intending to fish within the Fishery, not use that boat -

- (a) to enter the waters of the Fishery; or
- (b) outside a Port Area (as specified in Item 5 of the Schedule) within the waters of the Fishery;

at any time when any part of the Fishery is open to fishing unless

- (c) the Department has received from the master of that boat a nomination of intention to enter the Fishery and comply with the requirements of the Management Plan; and
- (d) that nomination is current.

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- (2) If the Department receives a nomination in accordance with subclause 1(c) in any calendar year, that nomination is current for the remainder of the year unless -
- (a) the Department receives a nomination from the master of that boat cancelling it; or
  - (b) the boat leaves the waters of the Fishery.
- (3) The master of a boat must not use that boat to enter or be underway in closed waters when any other part of the Fishery is open to fishing unless the Department -
- (a) has received a nomination to enter or be underway in closed waters (as the case may be); and
  - (b) received the nomination no more than one hour before the boat entered or was underway in those waters.
- (4) Any nomination to the Department made in accordance with this clause must be made using an ALC in accordance with the approved directions for use.
- (5) In any proceedings for an offence against the Act, unless proven to the contrary, the position of a boat received by the Department from an ALC installed on that boat is to be taken to be conclusive evidence of the actual position of that boat at that time.
- (6) For the purposes of section 62(1) of the Act and this clause the area specified is the area detailed in Item 1 of the Schedule.
- (7) For the purposes of this clause, if a person uses a boat on behalf of another person they are both taken to have so used the boat.

#### **Engine seals**

- 17.** (1) The owner of a boat shall —
- (a) on the written instruction of the Director cause the suppliers of an engine for the boat to install a lead seal on the fuel pump of such engine; and
  - (b) authorise the Director to install any such further lead seals as the Director may require.
- (2) The owner of the boat the engine of which has installed a seal in accordance with subclause (1) (a) or (b) shall —
- (i) not permit the removal or allow any interference to such seal without the prior written approval of the Director; and
  - (ii) immediately report to the Director any interference to such seal caused by accident or mechanical requirements and as soon as practical thereafter arrange for re-certification of the installed engine power by the supplier and the installation of a new seal.

#### **Inspection of engine and seals**

**18.** The owner of a boat shall permit the inspection of the engine configuration and any seal by an officer of the Fisheries Department and shall permit onboard the boat any person such officer may require for such inspection.

#### **Offences and major provisions**

- 19A.** A person who contravenes a provision of —
- (a) clauses 5, 6, 10, 11, 12, 16, 16A(2)(a), 16B(3) 17 or 20(4); or
  - (b) clauses 16A(2)(b), 16A(2)(c), 16A(2)(d), 16B(1) or 16B(4) ,
- commits an offence and for the purposes of section 75 of the Act the offences specified in subclause (a) are major provisions.

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#### Payment by instalments

20. (1) For the purposes of regulation 137(2) of the regulations, the total fee may be paid by instalments as specified in Item 4 of the Schedule if –
- (a) an election to pay by instalments is made by the holder of a licence in accordance with subclause (2); and
  - (b) there is no other fee, charge or levy in respect of the licence which has not been paid at the time the election is received at the head office of the Department.
- (2) An election for the purposes of subclause (1) must be
- (a) made in writing;
  - (b) received at the head office of the Department prior to the commencement of the licensing period to which the election relates;
  - (c) accompanied by the first instalment plus the surcharge.
- (3) For the purposes of regulation 137(3) of the regulations, the surcharge shall be 3.13% of the total fee.
- (4) The holder of a licence, or a person acting on that persons behalf, must not fish in the Fishery at any time when any fee or surcharge payable in respect of the licence is outstanding.

#### Procedure before this Plan may be amended

20A. For the purposes of section 65(1) of the Act, the Joint Trawl Management Advisory Committee is the advisory committee and the licensees of the Fishery are the persons that are to be consulted before this Plan is amended or revoked.

#### Revocation

21. Notice No. 213 published in the *Gazette* of 28 February 1986 is cancelled.

### Schedule

#### Item 1 (The Fishery)

All waters of the Indian Ocean and Exmouth Gulf bounded by a line commencing at the intersection of the high water mark at Point Murat and 21°48.90' south latitude; thence north easterly along the geodesic to the intersection of 21°42.70' south latitude and 114°18.35' east longitude; thence north easterly along the geodesic to the intersection of 21°37.50' south latitude and 114°23.35' east longitude; thence east by north along the geodesic to the intersection of 21°35.45' south latitude and 114°39.90' east longitude; thence south south east along the geodesic to the intersection 21°37.80' south latitude and 114°41.00' east longitude; thence south easterly along the geodesic to the intersection of 21°43.20' south latitude and 114°46.00' east longitude; thence south along the meridian to the intersection of the high water mark on the coastline of North Western Australia; thence generally south, west, then north along the high water mark of the coastline to the commencement point.

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**Item 2 (Nursery Area)**

All waters of Exmouth Gulf bounded by a line commencing from the intersection of the high water mark at Point Lefroy and 22°18.25' south latitude; thence north east by north along the geodesic to the intersection of 22°10.00' south latitude and 114°15.50' east longitude; thence east along the parallel to the intersection of 22°10.00' south latitude and 114°25.00' east longitude; thence north east along the geodesic to the intersection of 21°53.00' south latitude and 114°33.40' east longitude; thence east north east along the geodesic to the intersection of the high water mark at Tubridgi Point and 21°51.00' south latitude; thence generally south, west, then north along the high water mark of the coastline to the commencement point.

**Item 3 (Gear Trial Area)**

All waters of the fishery bounded by a line commencing at the intersection of 22°00.00' south latitude and 114°08.60' east longitude; thence east along the parallel to the intersection of 22°00.00' south latitude and 114°09.60' east longitude; thence south by west along the geodesic to the intersection of 22°03.00' south latitude and 114°09.00' east longitude; thence west along the parallel to the intersection of 22°03.00' south latitude and 114°08.00' east longitude; thence north by east along the geodesic to the commencement point.

**Item 4 – Payments by Instalments**

- (a) The first instalment is 25% of the total fee and is due for payment on or before 15 March of the year for which the licence is to be granted or renewed.
- (b) The second instalment is 25% of the total fee and is due for payment on or before 15 June immediately following the period specified in paragraph (a).
- (c) The third instalment is the total fee less the instalments provided for in paragraphs (a) and (b) and is due for payment on or before 15 September immediately following the period specified in paragraph (a).

**Item 5 (Port Area)**

The Port Area is the area within 3 nautical miles of latitude 21°57.445' south latitude and 114°08.477' east longitude (Exmouth Marina and associated area).

Dated this thirteenth day of March 1989.

GORDON HILL, Minister for Fisheries

*Note:*

*This consolidated plan contains the Original Plan published in GG No. 28 of 17.03.89 and the following subsequent amendments - Notice No. 437 published in GG 20 of 23.02.90; Notice No. 486 published in GG 52 of 05.04.91; Notice No. 537 published in GG 41 of 20.03.92; Notice No. 720 published in GG 81 of 27.06.95, Amendment (No.1) 1996 published in GG 101 of 19.07.96; Amendment (No.1) 1997 published in GG 39 of 14.03.97; Amendment (No.1) 1999 published in GG 151 of 06.08.99; Amendment (No.1) 2002 published in GG 52 of 22.03.02; Amendment (No.1) 2003 published in GG 32 of 28.02.03 and Amendment (No.1) 2004 published in GG 132 of 27.07.04.*

*See regulation 183 of the Fish Resources Management regulations 1995 concerning the citation of notices made under the Fisheries Act 1905 immediately before the commencement of those regulations.*

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