

Fish Resources Management Act 1994

**MARINE AQUARIUM FISH MANAGED FISHERY MANAGEMENT PLAN 2018**

FD 1257/14 [1191]

Made by the Minister under section 54.

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## Fish Resources Management Act 1994

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FD 1257/14 [1191]

Made by the Minister under section 54.

**PART 1 – PRELIMINARY****1. Citation**

This plan is the *Marine Aquarium Fish Managed Fishery Management Plan 2018*.

**2. Commencement**

This plan comes into operation on 1 October 2018.

**3. Exception**

This plan does not apply to the persons described in clause 7(a) prior to 1 November 2018.

**4. Interpretation**

(1) In this plan, unless the contrary intention appears –

***auxiliary boat*** means a licensed fishing boat used to fish in connection with fishing from a primary boat, the name and licensed fishing boat number of which is specified on a licence;

***coral*** means fish of that common name described by the scientific classification opposite that name in Schedule 7 to the regulations, excluding Order Corallimorpharia and Order Zoantharia;

***current entitlement*** means the usual entitlement conferred by a licence as –

- (a) increased by any entitlement transferred to the licence under section 141(1) of the Act; or
- (b) decreased by any entitlement transferred from the licence under section 141(1) of the Act;

***Fishery*** means the Marine Aquarium Fish Managed Fishery identified in clause 6;

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***Fish Eye*** means the electronic data management system managed by the Department for submitting and recording information related to operating in, and the taking of marine aquarium fish from, the Fishery;

***land hermit crab*** means fish of that common name described by the scientific classification *Coenobita spp*;

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

***manual landing form*** means a landing form approved by the CEO for use under clause 29(4) where a place of landing is in an area with no internet connection;

***marine aquarium fish*** means fish taken for marine aquarium display purposes or live aquarium feed, excluding –

- (a) *Tectus niloticus*;
- (b) Volute;
- (c) Land hermit crabs;
- (d) *Tridacna gigas*;

***nominated diver*** means a single natural person directed by a nominated operator to fish for marine aquarium fish under the authority of a licence;

***nominated operator*** means a single natural person nominated by the holder of a licence under clause 21 to control a fishing operation;

***plan*** means the *Marine Aquarium Fish Managed Fishery Management Plan 2018*;

***pre-fishing nomination*** means a nomination made by a nominated operator under clause 27(1);

***primary boat*** means a licensed fishing boat that is used to fish under the authority of a licence, the name and licensed fishing boat number of which is specified on the licence;

***quota species*** means coral, giant clam, live rock and syngnathiformes;

***syngnathiformes*** means fish listed under the family name syngnathidae with the common names of pipefish, seahorse or sea dragon;

***transferee's licence*** means the licence to which an entitlement is proposed to be transferred;

***transferor's licence*** means the licence from which an entitlement is proposed to be transferred;

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

(2) In this plan, the following terms describe fish of that common name described by the scientific classification opposite that name in Schedule 7 to the regulations –

Giant Clam;  
Live Rock;  
Volute;  
Zoila Cowry.

#### **5. Procedure before this Plan may be amended or revoked**

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

### **PART 2 – THE FISHERY**

#### **6. Identification and declaration of the Fishery**

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

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

### **PART 3 – LICENCES AND FEES**

#### **7. Criteria for the grant of a licence**

The criteria to be satisfied before the CEO may grant a person a licence to fish in the Fishery are that –

- (a) on 1 October 2018, the applicant was the holder of an authorisation granted in accordance with the *Marine Aquarium Fish Management Plan 1995*; and
- (b) an application for the grant of a licence is made on or prior to 31 January 2018.

#### **8. Duration of a licence**

A licence expires on 30 June next following the date of grant or renewal.

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**9. Matters to be specified on a licence**

A licence must specify –

- (a) the name and business address of the holder of the licence;
- (b) the name and licensed fishing boat number of not more than three licensed fishing boats that may be used as primary boats or auxiliary boats under the authority of the licence;
- (c) the licence number;
- (d) the date on which the licence was granted or renewed;
- (e) the date on which the licence expires;
- (f) the name of the Fishery;
- (g) the number of usual units of entitlement for quota species conferred by the licence;
- (h) the number of current units of entitlement for quota species conferred by the licence;
- (i) the unit value;
- (j) the amount of quota species that may be taken (in kilograms or number of individuals) under the authority of the licence; and
- (k) any conditions imposed on the licence by the CEO.

**10. Payment of fees by instalments**

- (1) For the purposes of regulation 137(2) the fee may be paid by instalments as specified in Schedule 3 of this plan 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 an office of the Department.
- (2) An election for the purposes of subclause (1) must be –
  - (a) made in writing;
  - (b) received at an office of the Department on or before 1 July next following the day on which the licence expires; and
  - (c) accompanied by the first instalment plus the surcharge.
- (3) For the purposes of regulation 137(3) the surcharge will be 3.13% of the total fee.

**PART 4 – CAPACITY OF THE FISHERY AND SCHEME OF ENTITLEMENT****11. Capacity of the Fishery**

- (1) Subject to clause 12, the capacity of the Fishery from 1 November 2018 to 30 June 2019 will be comprised of the total quantity that may be taken of each of the quota species, which is –

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- (a) 10,502 kg of coral;
- (b) 1,680 individual giant clams;
- (c) 42,000 kg of live rock;
- (d) 1,405 individual syngnathiformes.

(2) Subject to clause 12, the capacity of the Fishery from 1 July 2019 will be comprised of the total quantity that may be taken of each of the quota species, which is –

- (a) 15,000 kg of coral;
- (b) 2,400 individual giant clams;
- (c) 60,000 kg of live rock;
- (d) 2,000 individual syngnathiformes.

## 12. Reduction of capacity of the Fishery

(1) The capacity of the Fishery will be reduced upon –

- (a) the expiry of the 60 day period provided for in section 139(1) of the Act without an application for renewal of a relevant licence having been made;
- (b) the cancellation or non-renewal of a relevant licence under section 143(1) of the Act;
- (c) the cancellation of a relevant licence under section 223(1) of the Act; or
- (d) the surrender of a relevant licence under section 144(1) of the Act,

such reduction being the equivalent in kilograms or number of individuals of the relevant quota species to the number of usual units of entitlement conferred by the licence.

(2) The capacity of the Fishery will be reduced upon the making of an order under section 76(2) of the Act, such reduction being the number of kilograms or number of individuals of the relevant species of quota species corresponding to the units of entitlement fished, or intended to be fished, in excess of the entitlement of the licence.

(3) The CEO must, as soon as practicable following any change in capacity of the Fishery under this clause, publish notice of the change in the *Gazette*.

## 13. Sum of licence entitlements to equal capacity

The sum of the entitlements to fish for a quota species that may be conferred by all the licences authorising fishing in the Fishery for that quota species is to be equal to the capacity of the Fishery in respect of that quota species.

## 14. Licence entitlement to be expressed in terms of units

(1) The entitlement to fish for quota species conferred by a licence is to be –

- (a) expressed in terms of units of entitlement for each class of quota species; and
- (b) determined in accordance with clause 15.

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- (2) A class C unit confers an entitlement to fish for coral.
- (3) A class G unit confers an entitlement to fish for giant clam.
- (4) A class L unit confers an entitlement to fish for live rock.
- (5) A class S unit confers an entitlement to fish for syngnathiformes.
- (6) The maximum number of units conferred by all licences may be reduced from time to time where –
  - (a) an application for the renewal of a licence is not received within the period specified by section 139 of the Act; or
  - (b) a licence is cancelled; or
  - (c) units are forfeited by the operation of the Act.

## 15. Unit values

The extent of the entitlement to fish in the Fishery arising from time to time from a unit (the unit value) will be determined in accordance with Schedule 4 and be limited by reference to a number of kilograms or number of individuals of the relevant quota species to which the unit relates.

## 16. Conferral of entitlement

- (1) Where a licence is granted by the CEO under clause 7, the licence will, at the time it is granted, confer the number and class of units of entitlement specified in Schedule 5 in respect of the relevant authorisation.
- (2) In subclause (1), *relevant authorisation* means the managed fishery licence referred to in clause 7(a) which was held by the person.

## 17. Prohibition on fishing in excess of entitlement

At any time that a licence is in force a person must not –

- (a) fish under the authority of that licence unless the total quantity of the relevant quota species taken under the authority of the licence is less than or equal to the product of the current entitlement and the relevant unit value for that species;
- (b) have any of the relevant quota species on board a licensed fishing boat specified in a licence unless the total quantity of the relevant quota species taken under the authority of the licence is less than or equal to the product of the current entitlement and the relevant unit value for that species; or

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- (c) take, land or sell quota species unless the total quantity of the relevant quota species taken under the authority of a licence is less than or equal to the product of the current entitlement and the relevant unit value for that species.

## **PART 5 – TRANSFER OF ENTITLEMENT**

### **18. Grounds for refusing to transfer a licence or part of an entitlement**

- (1) The CEO may refuse to transfer a licence on the grounds that the forms which are required to be submitted under clauses 29, 30 and 31 in respect of the relevant licences have not been submitted.
- (2) The CEO may refuse to transfer part of an entitlement conferred by the transferor's licence to the transferee's licence on the grounds that –
- (a) the proposed transfer is not of a whole unit or whole number of units;
  - (b) the forms which are required to be submitted under clauses 29, 30 and 31 in respect of the relevant licences have not been submitted; or
  - (c) the forms submitted under clauses 29, 30 and 31 in respect of the transferor's licence establish that the value of the current units of entitlement that would be conferred by that licence after the transfer would be less than the extent to which fishing has been carried out under that licence.

### **19. Temporary transfer of entitlement**

The whole or part of an entitlement conferred by a licence may be temporarily transferred to another licence for a period ending at the time that the licence expires, provided that –

- (a) the transfer is for a whole number of units;
- (b) the fee to be paid in respect of the renewal of the transferor's licence has been paid; and
- (c) the value of the entitlement conferred by the transferor's licence after the transfer would not be less than the extent to which fishing has been carried out under that licence.

## **PART 6 – NOMINATED OPERATORS AND NOMINATED DIVERS**

### **20. Criteria for a person to fish in Fishery**

A person must not fish in the Fishery unless that person –

- (a) is a nominated operator; or
- (b) is a nominated diver.

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## 21. Licence holder to nominate a nominated operator

(1) The holder of a licence must nominate a person as the nominated operator for that licence.

Note: Where the holder of a licence has nominated more than one person to act as the nominated operator, the person who is acting as the nominated operator at any given time is taken to be the nominated operator.

(2) The holder makes a nomination under subclause (1) by –  
(a) completing the form approved by the CEO for that purpose; and  
(b) submitting the form to the Department.

(3) The holder of a licence must not permit a person to act as the nominated operator under that licence until the holder of the licence has complied with subclause (2).

## 22. Obligations of nominated operators

(1) A nominated operator must not fish in the Fishery under the authority of more than one licence at any time.

(2) A nominated operator must ensure that no more than three nominated divers fish in the Fishery under the authority of a licence at any time.

(3) A nominated operator must ensure that a nominated diver does not fish in the Fishery unless the nominated operator is present and in control of the fishing operation.

(4) Where a nominated operator has nominated to fish without a boat in the pre-fishing nomination form submitted in Fish Eye under clause 27(2), the nominated operator must ensure that any nominated diver fishing for marine aquarium fish under the authority of the relevant licence is within 500 metres of the nominated operator at all times.

## 23. Nominated divers

A nominated diver must not fish in the Fishery under the authority of more than one licence at any time.

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## PART 7 – GENERAL REGULATION OF FISHING OPERATION

### 24. Means of fishing in the Fishery

- (1) A person must not fish in the Fishery by any means other than –
  - (a) hand held nets; or
  - (b) hand held tools; or
  - (c) fishing lines.
- (2) A person who fishes by use of fishing line must not use more than one fishing line.
- (3) A person who fishes by use of fishing line must ensure that no more than three barbless hooks are attached to the line.

### 25. Restrictions on taking marine aquarium fish

- (1) A nominated operator must ensure that live rock is not taken under the authority of the relevant licence unless the whole of any rock, substrate or other substance on or in which the live rock is attached or inhabits is taken with the live rock.
- (2) A nominated operator must ensure that no more than –
  - (a) 100 litres per day of fish of the Order Corallimorpharia; and
  - (b) 100 litres per day of fish of the Order Zoantharia,is taken under the authority of a licence.

### 26. Use of boats

A nominated operator must ensure that an auxiliary boat is not used to fish under the authority of a licence unless that auxiliary boat is within 5 nautical miles of the primary boat being used to fish under the authority of the licence.

## PART 8 – NOMINATIONS AND FORMS

### 27. Nominated operator to make pre-fishing nomination

- (1) A nominated operator must make a pre-fishing nomination in Fish Eye before fishing in the waters of the Fishery on any given day.
- (2) Where a nominated operator makes a pre-fishing nomination under subclause (1), the nominated operator must –
  - (a) submit a pre-fishing nomination form in Fish Eye; and
  - (b) record the receipt number issued by Fish Eye in respect of the nomination.

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- (3) A nominated operator may cancel a pre-fishing nomination made under subclause (1) by –
- (a) submitting a cancellation of that nomination in Fish Eye; and
  - (b) recording the receipt number issued by Fish Eye in respect of the cancellation.
- (4) Where a nominated operator nominates a primary boat in the pre-fishing nomination form submitted in Fish Eye under subclause (2), the nominated operator must ensure that only the nominated boat is used as the primary boat.

## **28. Marking and labelling containers used to hold marine aquarium fish**

- (1) A nominated operator must ensure that any container being used to hold marine aquarium fish is marked or labelled with –
- (a) the name of the nominated operator; and
  - (b) the relevant licence number.
- (2) In addition to subclause (1), a nominated operator must ensure that any container being used to hold live rock is –
- (a) clearly and legibly marked or labelled with the accurate maximum internal volume of the container in litres; and
  - (b) covered with a lid that is level with the top of the container.

## **29. Nominated operator's obligations on landing marine aquarium fish**

- (1) A nominated operator must comply with this clause –
- (a) within 90 minutes of landing marine aquarium fish; and
  - (b) prior to allowing any marine aquarium fish to be removed from the place of landing; and
  - (c) prior to leaving the place of landing.
- (2) A nominated operator must –
- (a) determine the number of individual giant clams or syngnathiformes taken from the Fishery; and
  - (b) determine the weight of any live rock taken from the Fishery by multiplying the accurate maximum internal volume of the container as labelled in accordance with clause 28 by 400 grams, regardless of whether the container is full; and
  - (c) determine the weight of any coral taken from the Fishery by weighing the coral within one minute of it being taken out of the water; and
  - (d) round the weights determined under paragraphs (b) and (c) up to the nearest kilogram

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- (3) Subject to subclause (4), a nominated operator must –
- (a) record the number of individuals determined under subclause (2)(a) and the weights determined under subclause (2)(d) in a landing form in Fish Eye; and
  - (b) submit the landing form in Fish Eye.
- (4) If the nominated operator is unable to access Fish Eye as the place of landing is in an area with no internet connection, the nominated operator must record the information required under subclause (3)(a) in a manual landing form.

### **30. Nominated operator's obligations in respect of landing forms**

- (1) Where a nominated operator has submitted a landing form in Fish Eye in accordance with clause 29(3)(b), the nominated operator must –
- (a) retain the copy of the landing form sent to the nominated operator by Fish Eye; and
  - (b) produce the copy of the landing form to a fisheries officer on demand.
- (2) Where a nominated operator has completed a manual landing form in accordance with clause 29(4), the nominated operator must –
- (a) complete a landing form in Fish Eye that replicates the information recorded on the manual landing form; and
  - (b) submit the completed landing form in Fish Eye within 7 days of landing; and
  - (c) submit the manual landing form to the Department within 7 days of landing.

### **31. Nominated operator to complete catch and effort form**

- A nominated operator must –
- (a) accurately determine the weight in kilograms, volume in litres or number of individuals of all species of marine aquarium fish taken from the Fishery; and
  - (b) enter the details determined under paragraph (a) into a catch and effort form in Fish Eye; and
  - (c) submit the catch and effort form in Fish Eye within 7 days of fishing in the Fishery.

## **PART 9 – PROHIBITIONS AND OFFENCES**

### **32. Persons prohibited from fishing in the Fishery**

- (1) A person must not fish in the Fishery other than –
- (a) in accordance with this plan; and
  - (b) under the authority of a licence.
- (2) Subclause (1) does not apply to a person undertaking recreational fishing in accordance with the Act.

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**33. Prohibition on fishing for coral or live rock in an area of the Fishery**

A person must not fish for coral or live rock at any time in the waters described in Schedule 2.

**34. Prohibitions on selling or dealing with, or attempting to sell or deal with, or possessing, marine aquarium fish**

(1) In this clause –

*deal with* includes handling, storing, transporting, weighing and recording;

*otherwise dealt with* includes handled, stored, transported, weighed and recorded.

(2) A person must not sell, purchase or deal with or attempt to sell, purchase or deal with, or be in possession of, any marine aquarium fish taken from the waters of the Fishery, landed or otherwise dealt with in contravention of this plan.

(3) A person must not sell, purchase or deal with or attempt to sell, purchase or deal with, or be in possession of, any marine aquarium fish unless that marine aquarium fish was taken and landed by the holder of a commercial fishing licence under the authority of a licence.

**35. Prohibitions in respect of nominations and forms**

A person must not –

- (a) provide any false or misleading information in a nomination or form submitted in Fish Eye;
- (b) permit or assist any person to provide false or misleading information in a nomination or form submitted in Fish Eye;
- (c) act contrary to a pre-fishing nomination submitted in Fish Eye;
- (d) provide any false or misleading information in a manual landing form;
- (e) provide any false or misleading information in a catch and effort form.

**36. Prohibition on unauthorised persons accessing Fish Eye**

A person must not –

- (a) permit or assist a person who has not been issued a Fish Eye user identification or Fish Eye password to access Fish Eye;
- (b) provide a Fish Eye user identification or Fish Eye password to another person; or
- (c) access or attempt to access Fish Eye or a part of Fish Eye where that person is not authorised to access Fish Eye.

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**37. Offences**

A person who contravenes clause 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 of this plan commits an offence.

**SCHEDULES****SCHEDULE 1 – Description of the Fishery**

[clause 6]

All Western Australian waters.

**SCHEDULE 2 – Prohibited area for fishing for coral or live rock**

[clause 33]

Cleaverville Beach – the waters of the Indian Ocean bounded by a line commencing at the intersection of the high water mark and 116° 58.607' east longitude; thence north along the meridian to the intersection of 20° 38.984' south latitude and 116° 58.607' east longitude; thence east north east along the geodesic to the intersection of 20° 37.796' south latitude and 117° 02.230' east longitude; thence south along the meridian to the intersection of the high water mark; thence generally in a westerly and south westerly direction along the water mark to the commencement point.

**SCHEDULE 3 – Payment of fees by instalments**

[clause 10]

The fee payable in respect of the grant or renewal of a licence may be paid in instalments consisting of –

- (a) the first instalment being 25% of the total fee and due for payment on or before 1 July;
- (b) the second instalment being 25% of the total fee and due for payment on or before 1 October following the day on which the first instalment is paid; and
- (c) the third instalment being 50% of the total fee and due for payment on or before 1 January following the day on which the first instalment is paid.

**SCHEDULE 4 – Unit value**

[clause 15]

(1) The extent of entitlement to fish in the Fishery that arises from a unit during the licensing period from 1 November 2018 to 30 June 2019 will be determined as follows –

<b>Class</b>	<b>Type of fish</b>	<b>Unit value</b>
C	Coral	0.7 kg
G	Giant clam	0.7 individual
L	Live rock	0.7 kg
S	Syngnathiformes	0.7 individual

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(2) Where the entitlement determined in accordance with paragraph (1) does not equate to a whole number, then the entitlement is to be rounded up to the nearest whole number.

(3) The extent of entitlement to fish in the Fishery that arises from a unit during a licensing period after 1 July 2019 will be determined as follows –

Class	Type of fish	Unit value
C	Coral	1 kg
G	Giant clam	1 individual
L	Live rock	1 kg
S	Syngnathiformes	1 individual

### SCHEDULE 5 – Conferral of entitlement

[clause 16]

Authorisation number	Class C units (Coral)	Class G units (Giant Clams)	Class L units (Live Rock)	Class S units (Syngnathiformes)
MAFI2567	6,650	200	5,000	127
MAFC2564	250	200	5,000	753
MAFI2565	250	200	5,000	214
MAFI2566	1,050	200	5,000	120
MAFI2568	1,050	200	5,000	343
MAFI2570	250	200	5,000	61
MAFI2571	650	200	5,000	59
MAFI2572	250	200	5,000	58
MAFI2573	3,450	200	5,000	72
MAFI2576	650	200	5,000	75
MAFI2587	250	200	5,000	60
MAFI2588	250	200	5,000	58

Dated 14 of July 2018

Minister for Fisheries

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