

This compilation was prepared taking into account amendments up to and including the Amendment No. 1 of 2004 on 27-07-04.

FISHERIES ACT 1905
NICKOL BAY PRAWN LIMITED ENTRY FISHERY NOTICE 1991

Arrangement

1. Citation
 2. Interpretation
 3. Declaration of limited entry Fishery
 4. Prohibition on taking prawns
 5. Prohibition on selling or dealing
 6. Criteria to determine the boats which may operate in the Fishery
 7. Application for a licence
 8. Details on licence
 9. Closure of areas within the Fishery
 10. Authorised means of operating in the Fishery
 - 10A Stowage of trawl nets
 12. Boat replacement
 13. Boat modification
 14. Engine seals
 15. Inspection of engine and seals
 - 15A. Requirement for the installation of an Automatic Location Communicator
 - 15B. Presence in the Fishery
 18. Revocation
 19. Offences and major provisions
 20. Procedure before this Plan may be amended or revoked
- Schedule 1, 2 and 3

FISHERIES ACT 1905

NICKOL BAY PRAWN LIMITED ENTRY FISHERY NOTICE 1991
Notice N°.488

FD 148/75 v8

Made by the Minister under section 32.

Citation

1. This notice may be cited as the *Nickol Bay Prawn Limited Entry Fishery Notice 1991*.

Interpretation

2. In this notice 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 of the authorised boat;
 - "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;
 - "approved form" means in a form approved by the Director;

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- "authorised boat" means a boat licensed under regulation 2 of the Fisheries Regulations 1938 and that is authorised to take prawns from the waters of the fishery;
- "boat units" means boat units calculated in accordance with clause 12;
- "calendar year" means the period of twelve months commencing on each first day of January and ending on the last day of December;
- "closed waters" means any waters of the Fishery in which fishing is prohibited;
- "Fishery" means the Nickol Bay Prawn Limited Entry Fishery declared under clause 3;
- "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; and
- "licence" means a licence authorising a boat to operate in the Fishery;
- "otter board" means one of the boards used on a trawl net to keep the mouth of the net open while under tow;
- "otter trawl net" means a fishing net designed or intended to be towed having its mouth or opening controlled by otter boards;
- "prawn" means the fish of that common name described by the scientific classification opposite that name in Column 2 of Schedule 7 of the Regulations;
- "prawns" means all species of decapod crustacea of the family *Penaeidae*.
- "regulation" means the *Fish Resources Management Regulations 1995*;
- "standard otter trawl net" means an otter trawl net with a headrope length of greater than 5 metres;
- "to stream" means to tow a net on the surface of the water with its codend open;
- "try net" means an otter trawl net with a headrope length of 5 metres or less; and
- "underway" means that a boat is not at anchor, or made fast to the shore or aground.

Declaration of limited entry Fishery

3. It is hereby declared that prawns shall constitute a limited entry fishery in the waters described in Schedule 1 to be called the *Nickol Bay Prawn Limited Entry Fishery*.

Prohibition on taking prawns

4. A person, other than a person to whom section 32(5) of the Act applies, shall not fish for prawns by any means in the waters described in Schedule 1 other than in accordance with this notice.

Prohibition on selling or dealing

5. A person shall not sell or deal, or attempt to sell or deal, in any way with prawns taken in contravention of this notice.

Criteria to determine the boats which may operate in the Fishery

6. 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 Nickol Bay Prawn Fishery from 1 January 1990 to 31 December 1990; or
 - (b) that the boat replaces a boat to which paragraph (a) applied.

Application for a licence

7. The licensee of a boat which fulfils the criteria in clause 6(a) or (b) may apply for a licence authorising the boat to operate in the Fishery.

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Details on licence

8. 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 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 areas within the Fishery

9. (1) Where the Executive Director is of the opinion that it is in the better interest of the Fishery to do so, the Executive Director may by notice in writing given 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 the Fishery or in any part of the Fishery by a person authorised to fish in the Fishery under the authority of a licence.
- (2) The holder of a licence, or a person acting on that person's behalf must not fish for prawns in any part of the Fishery at a time when fishing for prawns in that part of the Fishery has been prohibited by a notice made under subclause (1).
- (3) The provisions of a notice made in accordance with subclause (1) may be made to apply at all times or at any specified time.
- (4) A notice made under subclause (1) may be revoked or amended by notice in writing given to all licence holders.

Authorised means of operating in the Fishery

10. A person shall not fish for prawns in the Fishery other than by —
- (a) standard otter trawl nets the total headrope length of which does not exceed 29.27 metres;
 - (b) a try net; or
 - (c) both (a) and (b).

Stowage of trawl nets

10A. Otter boards, otter trawl nets and warp wires carried on or attached to any authorised boat shall be securely attached to that boat and kept clear of the water in any part of the Fishery when fishing for prawns is prohibited in accordance with clause 9, except that otter trawl nets may be streamed for the first hour after the start of such a prohibition.

Boat replacement

12. (1) For the purpose of this clause —
- "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;
- "B" means "breadth" as defined in the Code;
- "D" means "depth" as defined in the Code;
- "IEP" means installed engine power in kilowatts of the boat's engine as certified by the supplier;
- "ML" means "measured length" as defined in the Code measured in accordance with Appendix A to Section 1 of the Code.
- (2) Subject to the prior written approval of the Director a boat licensed to operate in the Fishery may be replaced by a boat provided that the replacement boat does not exceed 375 boat units calculated in accordance with the following formula —

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

Boat modification

13. The licensee of a boat licensed to operate in the Fishery 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.

Engine seals

14. (1) The licensee of a boat licensed to operate in the Fishery 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 or permit the installation of any such further lead seals as the Director may require.
- (2) The licensee of the boat the engine of which has installed a seal in accordance with subclause (1)(a) or (b) shall —
- (a) not permit the removal or allow any interference to such seal without the prior written approval of the Director; and
 - (b) immediately report to the Director any interference to such seal caused by accident or mechanical requirements and as soon as practical thereafter arrange for recertification of the installed engine power by the supplier and the installation of a new seal.

Inspection of engine and seals

15. The licensee of a boat licensed to operate in the Fishery shall permit the inspection of the engine configuration and any seal by an officer of the Fisheries Department and shall permit on board the boat any person such officer may require for such inspection

Requirement for the installation of an Automatic Location Communicator

- 15A. (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 an authorised boat in the Fishery unless —
- (a) an ALC has been installed in that boat in accordance with the approved directions for use and by an approved person;
 - (b) the ACL 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 boat authorised by the licence must not be used 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.

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

Presence in the Fishery

15B. (1) The master of an authorised 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 Schedule 3) 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) the nomination is current.

(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 that year unless –

- (a) the Department receives a nomination from the master of that boat cancelling it;
- (b) the boat leaves the waters of the Fishery; or
- (c) the boat is used in accordance with the *Pilbara Fish Trawl Interim Managed Fishery Management Plan 1997* to fish in that part of the waters of the Fishery that coincides with the waters of the Pilbara Fish Trawl Interim Managed Fishery.

(3) The master of an authorised 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 an authorised 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 areas specified are the areas detailed in Schedule 1 and in Items 1 to 4 in Schedule 2.

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

Revocation

18. The following notices are cancelled –

- (a) The notice relating to the Nickol Bay Prawn Fishery published in the *Gazette* of 12 December 1980;
- (b) Notice Nos. 220 and 221 published in the *Gazette* of 4 April 1986; and
- (c) Notice No. 247 published in the *Gazette* of 20 March 1987.

Offences and major provisions

19. A person who contravenes a provision of –

- (a) clauses 15A(2)(a) or 15B(3); or

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(b) clauses 4, 5, 9(2), 10, 10A, 13, 14, 15, 15A(2)(b), 15A(2)(c), 15A(2)(d), 15B(1) or 15B(4),
commits an offence and for the purposes of section 75 of the Act the offences specified in subclause (a) are major provisions.

Procedure before this Plan may be amended or revoked

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

**Schedule 1
Description of the Fishery**

All waters of the Indian Ocean and Nickol Bay between 116°45.00' east longitude and 120°00.00' east longitude adjacent to Western Australia on the landward side of a line commencing at the intersection of 19°09.50' south latitude and 116°45.00' east longitude; thence east by north along the geodesic to the intersection of 19°09.00' south latitude and 116°50.00' east longitude; thence east north east along the geodesic to the intersection of 19°00.00' south latitude and 117°14.00' east longitude; thence north east by east along the geodesic to the intersection of 18°01.00' south latitude and 119°00.00' east longitude; thence north east by east along the geodesic to the intersection of 17°55.00' south latitude and 119°11.00' east longitude; thence east by north along the geodesic to the intersection of 17°41.70' south latitude and 120°00.00' east longitude, being the end point of the line.

Schedule 2

Item 1. Nickol Bay Nursery

All waters of Nichol Bay south of a line drawn from Sloping Point, at the intersection of the high water mark and 20°31.50' south latitude; thence south east by east along the geodesic to the intersection of 20°38.10' south latitude and 117°02.30' east longitude; thence southerly along the geodesic to the intersection of 20°38.90' south latitude and 117°02.20' east longitude.

Item 2. Extended Nickol Bay Nursery

All waters of Nickol Bay bounded by a line commencing on Dolphin Island at the intersection of the high water mark and 20°28.90' south latitude; thence south easterly along the geodesic to the intersection of 20°38.10' south latitude and 117°02.30' east longitude; thence north west by west along the geodesic to the intersection of the high water mark at Sloping Point and 20°31.50' south latitude; thence north along the geodesic to the high water mark on Dolphin Island at the intersection of 20°31.00' south latitude; thence generally northerly along the high water mark on the eastern side of Dolphin Island to the commencement point.

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Item 3. Depuch Nursery

All waters of the Fishery bounded by a line commencing at the high water mark on the mainland at the intersection of 117°33.00' east longitude; thence north along the meridian to the intersection of 20°36.50' south latitude; thence east along the parallel to the intersection of 117°43.00' east longitude; thence south south east along the geodesic to the intersection of 20°39.25' south latitude and 117°43.95' east longitude; thence south by east along the geodesic to the intersection of the high water mark on the mainland at 117°44.30' east longitude.

Item 4. De Grey River Nursery

All waters of the Fishery bounded by a line commencing at the high water mark on the mainland at the intersection of 20°10.60' south latitude; thence north west by north along the geodesic to the intersection of 20°06.60' south latitude and 118°50.00' east longitude; thence north by west along the geodesic to the intersection of 20°01.20' south latitude and 118°48.30' east longitude; thence north north east along the geodesic to the intersection of 19°57.00' south latitude and 118°50.50' east longitude; thence north north east along the geodesic to the intersection of 19°53.20' south latitude and 118°53.60' east longitude; thence north east by east along the geodesic to the intersection of 19°49.20' south latitude and 119°00.20' east longitude; thence east north east along the geodesic to the intersection of 19°47.50' south latitude and 119°05.30' east longitude; thence east south east along the geodesic to the intersection of 19°49.90' south latitude and 119°11.50' east longitude ; thence south easterly along the geodesic to the intersection of 19°53.60' south latitude and 119°15.80' east longitude; thence south along the meridian to the high water mark on the mainland.

**Schedule 3
Port Areas**

Point Samson

The Port Area is the area within 2 nautical miles of the intersection of 20°38.20' south latitude and 117°11.53' east longitude

Port of Dampier

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

Port Hedland

The Port Area is the area within 3 nautical miles of the intersection of 20°18.92' south latitude and 118°34.62' east longitude

Dated 9 April 1991.

GORDON HILL, Minister for Fisheries.

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Note:

This consolidated plan contains the Original Plan published in GG No.57 of 19.04.91 and the following amendments – Erratum published in GG 67 of 10.05.91, Notice No. 533 published in GG 32 of 03.03.92; Notice No. 591 published in GG 38 of 02.03.93; Notice No. 645 published in GG 31 of 11.03.94; Notice No. 694 published in GG 24 of 21.02.95; Amendment (No.1) 1996 published in GG 37 of 15.03.96; Amendment (No.1) 1998 published in GG 56 of 20.03.98; Amendment (No.1) 2001 published in GG 244 of 14.12.01; Amendment (No.1) 2002 published in GG 35 of 26.02.02 and Amendment (No.1) 2004 published in GG 132 of 27.07.04 .

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