

FISHERIES ACT 1905
WARNBRO SOUND (CRAB) LIMITED ENTRY FISHERY NOTICE 1995
 Arrangement

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FISHERIES ACT 1905
WARNBRO SOUND (CRAB) LIMITED ENTRY FISHERY NOTICE 1995
 Notice No. 730

FD 335/92

Made by the Minister under Section 32.

Citation

1. This Notice may be cited as the *Warnbro Sound (Crab) Limited Entry Fishery Notice 1995*.

Commencement

2. This notice shall commence operation on 30 September 1995.

Interpretation

3. In this Notice unless the contrary intention appears —
 "authorised boat" means
 - (a) a licensed fishing boat, the name, licensed fishing boat number and length of which are specified in a licence; or
 - (b) a boat specified in a written authority under regulation 132 where the boat is to be used in place of a boat described in (a);
 "authorised person" means the nominated operator of a licence, or if no nominated operator then the licensee of a licence;
 "crab pot" means a device as described in clause 12(3) and which is baited for the purpose of taking crabs;
 "crabs" means any crab of the species *Portunus pelagicus*;
 "Fishery" means the Warnbro Sound (Crab) Limited Entry Fishery declared under clause 4;

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"licence" means a managed fishery licence which authorizes a person to fish in the Fishery;

"licensed fishing boat" has the same meaning as in the regulations;

"measured length" means the measured length of the boat as defined by and determined in accordance with the department of Transport Instruction to Surveyors notice 7/87 (reworked September 1994) effective from 21 September 1994, as reworked or superseded from time to time;

"nominated operator" means the person approved by the CEO, as the nominated operator of a licence, in accordance with clause 8;

"operate" means —

- (a) to search for crabs;
- (b) to attempt to take crabs;
- (c) to take crabs; or
- (d) to engage in any other activity that can reasonably be expected to result in the taking of crabs;

"pull" in relation to a crab pot means to bring the crab pot from the seabed to the surface of the sea;

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

"set" in relation to a crab pot means to position and release the crab pot into the water;

"Shoalwater Islands Marine Park" means all the waters of the Indian Ocean as shown delineated in black and bordered in red on Department of Land Administration Miscellaneous Plan No. 1687;

"Warnbro Sound" means the area of water described in Schedule 1.

Declaration of fishery

4. Fishing for crabs in the waters described in Schedule 1, previously declared under the Fisheries Act 1905 to constitute a limited entry fishery 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 Warnbro Sound Crab Fishery.

Prohibition on fishing for or selling crabs

5. (1) A person, other than a person fishing for a non-commercial purpose in accordance with the Act, must not fish in the Fishery by any means other than in accordance with this plan.

(2) A person shall not sell, dispose of or otherwise deal with or attempt to sell, dispose of or otherwise deal with crabs taken in contravention of this plan.

Criteria for a person to fish in the Fishery

6. A person, other than a person fishing for a non-commercial purpose in accordance with the Act must not fish in the fishery unless —

- (a) the person holds a commercial fishing licence granted pursuant to the regulations; and
- (b) the person is fishing from an authorised boat.

Criteria for issue of a licence

7. (1) The criteria that shall be applied to determine whether a licence may be granted in relation to a licensed fishing boat is that —

- (a) the boat was used in Warnbro Sound —
 - (i) to take at least 600 kilograms of crabs;
 - (ii) to take crabs in at least 2 months,

in each year of any five years during the period 1 January 1986 to 31 December 1991;

- (b) the boat has replaced a boat to which paragraph (a) applies.

(2) In this clause, "year" means the period from 1 January to 31 December in any one year.

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Licence

8. (1) The licensee of a licensed fishing boat as described in clause 7 may apply to the CEO for the grant of a licence.

(2) Where more than one person (whether natural persons or otherwise) or a body corporate is the proposed licensee, the proposed licensee must nominate a natural person to be the nominated operator and a licence shall not be granted unless the CEO approves such nomination.

(3) A nomination made under subclause (2) shall be in writing to the CEO on the approved form.

(7) Where the CEO has approved the grant or the renewal of a licence, the licence expires on 30 September of the year for which it was granted.

(9) When a licence is granted or renewed, the licence shall be endorsed to show —

- (a) the name, licensed fishing boat number and measured length of any licensed fishing boat which may be used for or in connection with fishing in the Fishery under the authority of that licence;
- (b) the name and address of the licensee and nominated operator (if any) of that boat;
- (c) the name of the Fishery;
- (d) the licence number;
- (e) the date of grant or renewal;
- (f) the period for which the licence is valid; and
- (h) any conditions imposed on the licence.

Additional criteria for the grant of a licence

8A. (1) The CEO may grant a licence to the licensee of a licensed fishing boat where —

- (a) the licensee held Warnbro Sound (Crab) Managed Fishery Licence WSCR 2578 on 30 September 2005;
- (b) the licensee establishes to the satisfaction of the CEO that an application for the renewal of the licence referred to in paragraph (a) was not made to the CEO due to the inadvertence of the holder;
- (c) the licensee makes an application to the CEO before 30 September 2013; and
- (d) the licensee pays a fee of \$2,000 when making an application under paragraph (c).

(2) Clause 8(7) applies to a licence granted by the CEO under subclause (1).

Closures within the Fishery

10. (1) Subject to subclause (2) a person shall not operate in the waters of the Fishery other than —

- (a) during the period commencing on 1 December in any year and ending on the last day in February in the following year, between the hours of 0430 and 1200 on any day;
- (b) during the period commencing on 1 March and ending on 30 June in any year, between the hours of 0530 and 1300 on each day;
- (c) during the period commencing on 1 July and ending 30 September in any one year, between the hours of 0630 and 1400 on each day.

(2) A person must not fish at any time in the waters described in Schedule 3.

Licensee or nominated operator to control operations within the Fishery

11. Unless otherwise authorised in writing by the CEO, an authorised person shall —

- (a) when the authorised boat is in the waters of the Fishery, be on board the authorised boat;

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- (b) when the authorised boat is being used to operate in the waters of the Fishery, be in control of or in charge of those activities.

Permitted means of operating in the Fishery

- 12.** (1) A person must not fish in the Fishery by any means other than by means of a crab pot.
 (2) A person must not fish in the Fishery by means of more than 100 crab pots at any one time.
 (3) A crab pot used in the waters of the Fishery shall —
 (a) have two rings each of diameter no greater than 1.16 metres; and
 (b) when set, have a height between the rings of no greater than 450 millimetres, and have attached to it by negatively buoyant rope one float that —
 (i) has a diameter of not less than 190 mm, and
 (ii) is branded or stamped in legible letters not less than 80 mm high and not less than 15 mm wide with the initial letter of the port at which that licence is granted followed by the distinguishing number allotted under sub regulation (4) of regulation 2 of the regulations in respect of the licensed fishing boat that is used to set or lift the crab pot.
 (4) A person must not pull any crab pots more than once in any 24 hour period commencing at midnight.
 (5) A person must not use a boat in the Fishery if that boat is greater than 8 metres in measured length.

Procedure before this plan may be amended or revoked

- 13.** For the purposes of Section 65 of the Act the licensee is the person to be consulted before this plan is amended or revoked

Offences

- 14.** A person who contravenes a provision of -
 (a) clause 5, 6, 11 or 12; or
 (b) clause 10

commits an offence and for the purposes of section 75 of the Act the provisions specified in paragraph (a) are major provisions.

Schedule 1 (Clause 4)

The waters of the Indian Ocean bounded by a line commencing at a point on the high water mark at the northern end of Cape Peron, known as John Point; thence extending in a northerly direction towards South West Point on Garden Island until it intersects a line bearing 244° 03' 18" (the northern boundary of the marine park); thence in a south westerly direction to the intersection of 32° 15' 44" south latitude and 115° 40' east longitude; thence in a southerly direction to the intersection of 32° 22' 40" south latitude and 115° 40' east longitude; thence in an westerly direction to Becher Point; thence in a generally northerly direction along the high water mark to the point of commencement.

Schedule 3 (Clause 10)

All that portion of the Fishery lying west of a line starting at the western extremity of Becher Point in Warnbro Sound and extending in a northerly direction to the western extremity of Mersey Point.

Dated this 16th day of September 1995.

MONTY HOUSE, Minister for Fisheries

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This compilation was prepared taking into account the amendments up to and including the *Warnbro Sound (Crab) Fishery Management Plan Amendment 2013* published in GG No. 161 on 30.08.13.

Note:

This consolidated plan includes the original plan published in GG No. 129 of 22.09.95 and the following subsequent amendments - *Amendment (No.1) 2003* published in GG 170 of 28.10.03; *Amendment (No.2) 2003* published in GG 202 23.12.03; a Correction published in GG 62 of 08.04.04; *Amendment (No.1) of 2004* published in GG 119 of 06.12.04; a *Correction* published in GG 146 of 20.08.04; *Warnbro Sound (Crab) Fishery Management Plan Amendment 2013* published in GG No. 161 on 30.08.13.

[See regulation 183 of the Fish resources Management regulations 1995 concerning the notices in force under the Fisheries Act 1905 immediately before the commencement of those regulations.]

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