

This compilation incorporates amendments up to and including the *Cockburn Sound (Line and Pot) Management Plan Amendment 2015* published in Government Gazette No. 51 on 02/04/2015.

FISHERIES ACT 1905

COCKBURN SOUND (LINE AND POT) LIMITED ENTRY FISHERY NOTICE 1995

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FISHERIES ACT 1905

COCKBURN SOUND (LINE AND POT) LIMITED ENTRY FISHERY NOTICE 1995

Notice No. 660

FD 968/85

Made by the Minister under Section 32.

Citation

1. This Notice may be cited as the *Cockburn Sound (Line and Pot) Limited Entry Fishery Notice 1995*.

Commencement

2. This Notice shall commence operation on 1 March 1995.

Interpretation

3. In this Notice unless the contrary intention appears —
 - "authorised boat" means a licensed fishing boat in respect of which a licence is issued pursuant to this Notice;
 - "authorised person" means
 - (a) in the case where the licence holder does not also hold a class A licence in the *Cockburn Sound (Crab) Managed Fishery*, the nominated operator or if no nominated operator, the holder of the licence; or
 - (b) in the case where the licence holder does also hold a class A licence in the *Cockburn Sound (Crab) Managed Fishery*, the holder of the licence or a person acting on that person's behalf;
 - "Cockburn Sound" means the area of water described in the Schedule;
 - "current entitlement" means the usual entitlement conferred by a licence as —
 - (a) increased by any entitlement transferred to the licence under section 141 of the Act; or

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- (b) decreased by any entitlement transferred from the licence under section 141 of the Act;
- "cuttlefish" means any fish of the order *Sepioidea*;
- "Fishery" means the Cockburn Sound (Line and Pot) Limited Entry Fishery declared under clause 4;
- "jig" means a device used for taking squid or cuttlefish which is attached to a hand line and which has unbarbed hooks;
- "licence" means any limited entry fishery licence issued or renewed pursuant to this Notice that authorises a person to use a licensed fishing boat to operate in the Fishery or any part of the Fishery;
- "nominated operator" means a person approved by the CEO as the nominated operator of a licence in accordance with clause 8;
- "octopus" means any fish of the order *Octopoda*;
- "octopus pot" means an unbaited device open at one end or a baited device designed to capture cuttlefish, octopus or squid and approved in writing for that use by the CEO;
- "operate" means —
- (a) to search for fish;
 - (b) to attempt to take fish;
 - (c) to take fish; or
 - (d) to engage in any other activity that can reasonably be expected to result in the taking of fish;
- "Regulations" means the *Fish Resources Management Regulations 1995*;
- "squid" means any fish of the order *Teuthoidea*;
- "supplementary licence" means a limited entry fishery licence issued pursuant to clause 9 that is endorsed as a "supplementary licence" or any such licence subsequently renewed;
- "transfer" means the passing of any ownership or effective control of a licence from one person to another person.
- "unit value" means the value of a unit of entitlement determined in accordance with clause 19;
- "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.

Declaration of limited entry fishery

4. (1) It is hereby declared that the taking of any species of fish or otherwise operating from the waters described in Schedule 1 by line or octopus pot shall constitute a limited entry fishery named the *Cockburn Sound (Line and Pot) Limited Entry Fishery*.
- (2) This notice does not apply to a person fishing in the Fishery for a recreational purpose in accordance with the Act.

Prohibition on taking or selling fish

5. (1) A person shall not operate by means of a line or octopus pot in the Fishery other than in accordance with this Notice.
- (2) A person shall not sell, dispose of or otherwise deal with or attempt to sell, dispose of or otherwise deal with fish taken from the Fishery in contravention of this Notice.

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Criteria for a person to operate in the Fishery

6. (1) A person must not fish in the Fishery unless that person –
- (a) holds a commercial fishing licence; and
 - (b) operates from an authorised fishing boat; and
 - (c) operates under the authority of a licence.
- (2) A person must not fish for octopus in the Fishery unless that person holds a licence that authorises fishing for octopus.

Criteria for issue of a licence

7. The criteria that shall be applied to determine whether a license may be issued in relation to a licensed fishing boat are that –
- (a) the boat is licensed to be used to operate in any of the following limited entry fisheries –
 - (i) under a class A licence in the *Cockburn Sound (Crab) Limited Entry Fishery*;
 - (ii) under a class A licence in the *West Coast (Beach Bait Fish Net) Limited Entry Fishery*;
 - (iii) the *Cockburn Sound (Fish Net) Limited Entry Fishery*; or
 - (iv) the *Cockburn Sound (Mussel) Limited Entry Fishery*;
 - (b) the boat was used to fish by line or pot in Cockburn Sound in 1984 and during 1985 prior to 30 April 1985; or
 - (c) the boat has replaced a boat to which paragraph (a) or paragraph (b) applies.

Licence

8. (1) The licensee of a licensed fishing boat as described in Clause 7 may apply to the CEO for a licence to operate in the Fishery.
- (2) Where more than one person (whether natural persons or otherwise) or a body corporate is the proposed licensee and that proposed licensee does not hold a class A licence in the *Cockburn Sound (Crab) Managed Fishery*, the proposed licensee must nominate one natural person to be the nominated operator and a licence shall not issue unless the CEO approves such nomination.
- (2A) Where a licence is held in the manner described in subclause (2) and the licence holder holds a class A licence in the *Cockburn Sound (Crab) Managed Fishery*, the CEO may vary the licence by removing the name of the nominated operator.
- (2B) Where a licence has been varied by the CEO in accordance with subclause (2A), the licence continues to operate as if the provisions of subclause (2) had not been made.
- (3) A nomination made under subclause (2) shall be in writing to the CEO on the approved form.
- (4) Subject to clause 13, the nominated operator of a licence shall not be replaced.
- (5) A licensee may apply to the CEO for the renewal of a licence at any time within 30 days before the licence expires.
- (6) If the CEO considers that it is appropriate to do so, the CEO may in the case of an application under –
- (a) subclause (1) - approve the issue of a licence;
 - (b) subclause (3) - approve the person nominated to be the nominated operator of the licence; or
 - (c) subclause (5) - approve the renewal of a licence.
- (7) Where the CEO has approved the issue or renewal of a licence, the licence expires on 31 December of the year for which the licence was issued.
- (8) A licence may be issued or renewed subject to conditions that shall be endorsed on it.

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- (9) When a licence is issued or renewed, the licence shall be endorsed to show —
- (a) the name and licensed fishing boat number in respect of which it is issued;
 - (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 issue or renewal;
 - (f) the period for which the licence is valid;
 - (g) the number of usual units of entitlement to fish for octopus conferred by the licence;
 - (h) the number of current units of entitlement to fish for octopus conferred by the licence; and
 - (i) any conditions imposed on the licence.

Ministerial discretion

9. (1) Notwithstanding the provisions of clause 7, the licensee of a licensed fishing boat that does not satisfy the criteria mentioned in clause 7 may, on application and with the written approval of the Minister, be issued with a licence to operate in the Fishery.

(2) The Minister may, pursuant to this clause, direct that any licence (including a supplementary licence) be issued.

(3) Without limiting subclause (2), a licence issued under this clause may be restricted —

- (a) to any part of the Fishery;
- (b) to any period of operation; and
- (c) by any conditions that the Minister may impose.

Licensee or nominated operator to control operations within Fishery

10. 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; and
- (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.

Use of handlines or octopus pots

11. (1) A person must not take fish from the waters of the Fishery unless the fish is taken from an authorised boat and by means of a maximum of three handlines, with each line —

- (a) having no more than three hooks or three gangs (of three hooks or less) of hooks; and
- (b) being attended to from or attached to the authorised boat at all times.

(2) Subclause (1) does not apply to the taking of cuttlefish, octopus or squid from the waters of the Fishery.

(3) A person must not take cuttlefish or squid from the waters of the Fishery unless the cuttlefish or squid is taken from an authorised boat and by means of —

- (a) octopus pots; or
- (b) a maximum of three handlines, each line having no more than three jigs and each line being attended to from or attached to the authorised boat at all times.

(4) A person must not take octopus from the waters of the Fishery unless the octopus is taken from an authorised boat and by means of octopus pots.

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Requirements for octopus pot floats

11A. (1) A person must not fish in the Fishery by means of an octopus pot, or series of octopus pots joined together by a line underwater, unless that octopus pot or series of octopus pots is attached to a surface float that –

- (a) has a diameter of not less than 150 mm if the float is spherical and, in any other case, has a length of not less than 200 mm and a width of not less than 100 mm; and
- (b) is marked by branding or stamping with legible characters not less than 60 mm high and not less than 10 mm wide showing the licensed fishing boat number of the authorised boat.

(2) A person must not use a series of octopus pots joined together by a line underwater unless a surface float is attached to both ends of the line.

Use of octopus pots between 1 May and 14 November

11B. (1) In this clause –

- “first surface float” means the surface float that is connected to the submerged pot line;
- “float rig” means the length of rope between the first and last surface float;
- “last surface float” means the surface float that is at the end of the float rig and is only connected to another surface float;
- “pot line” means the length of rope between a surface float and the line joining a series of octopus pots together.

(2) This clause applies to the use of octopus pots to fish in the Fishery during the period commencing on 1 May and ending on 14 November in any year.

(3) A person using an octopus pot or series of octopus pots joined together by a line underwater must ensure that there is no rope other than the float rig on the surface of the water.

(4) A person using a series of octopus pots joined together by a line underwater must ensure that the line joins a minimum of 20 octopus pots.

[12. Deleted on 02.04.15. by *Cockburn Sound (Line and Pot) Management Plan Amendment 2015.*]

Transfer of Licence

13. (1) A licensee who —

- (a) in respect of an authorised boat holds a licence and a class A licence in the *Cockburn Sound (Crab) Limited Entry Fishery*; and
- (b) has obtained the prior written approval of the CEO

may on application made to the CEO, transfer both licences simultaneously with the authorised boat or to the licensee of another licensed fishing boat which qualifies under clause 12 as a replacement boat for the authorised boat.

(2) Except as provided in this clause, a licence shall not be transferred.

(3) The licences affected by a transfer under this clause shall be endorsed accordingly.

Grounds for refusing to transfer an entitlement to fish for octopus

13A. The CEO may refuse to transfer an entitlement to fish for octopus, or part of an entitlement to fish for octopus, conferred by a licence to another licence on the grounds that the proposed transfer is not of a whole unit or whole number of units.

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Temporary transfer of entitlement to fish for octopus

13B. An entitlement to fish for octopus conferred by a licence may be temporarily transferred to another licence for a period ending at the time that the licence expires, provided that the transfer is of a whole unit or whole number of units.

Applications and prescribed fees

- 14.** An application to the CEO under this Notice shall be —
- (a) made on the form approved by the CEO;
 - (b) lodged subject to any direction in this notice, in accordance with the directions on the form; and
 - (c) accompanied with the prescribed fee, if any.

[15. Deleted on 02.04.15. by Cockburn Sound (Line and Pot) Management Plan Amendment 2015.]

Capacity of the Fishery

16. The capacity of the Fishery is 13,005 octopus pots.

Licence entitlements to be expressed in terms of units

17. The entitlement to fish for octopus conferred by a licence is to be expressed in terms of units of entitlement, and determined in accordance with clause 19.

Conferral of entitlement

18. The number of units of entitlement to fish for octopus conferred by a licence held by a person on 30 April 2015 is specified in Schedule 2.

Unit values

19. The extent of the entitlement to fish for octopus in the Fishery arising from time to time from a unit (“the unit value”) is determined in accordance with Schedule 3.

Prohibition on operating in excess of entitlement

20. At any time that a licence is in force, a person must not fish for octopus in the Fishery under the authority of a licence by means of more octopus pots than equates to the value of the current entitlement of the licence.

Offences

21. A person who contravenes a provision of clause 5, 6, 10, 11, 11A, 11B or 20 commits an offence.

Schedule 1 – Description of the Fishery

(clauses 3 and 4)

The waters of the Indian Ocean bounded by a line commencing at a point on the high water mark at the western extremity of the South Mole at the entrance to Fremantle Harbour and extending westerly to the southern most rock of the Straggler Rocks; thence south easterly to the high water mark on the northern most point of Mewstone; thence generally southerly along the high water mark on the eastern shore of Mewstone to its southern most point; thence southerly to the high water mark on the northern most point of Carnac Island; thence generally southerly along the high water mark on the eastern shore of that island to its southern most point; thence southerly to the high water mark at Entrance Point on Garden Island; thence generally southerly along the high water mark on the eastern shore of that island to south west point; thence southerly to the high water mark at John Point on the mainland; thence along the high water mark to the commencing point.

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Schedule 2 – Units of entitlement
(clause 18)

CSLPF Managed Fishery Licence number	Number of units of entitlement conferred
CSLP2435	211
CSLP2467	202
CSLP2468	3000
CSLP2469	203
CSLP2471	500
CSLP2484	1531
CSLP2486	220
CSLP2488	873
CSLP2489	913
CSLP2491	200
CSLP2494	310
CSLP2513	4642
CSLP2518	200
TOTAL UNITS	13005

Schedule 3 – Unit value
(clause 19)

Calculation of unit value

The extent of the entitlement arising from a unit shall be determined in accordance with the formula:

$$\frac{C}{N} = U$$

Where –

‘C’ is the capacity of the Fishery;

‘N’ is the total number of units of entitlement to fish for octopus conferred by all licences conferring an entitlement to fish for octopus in the Fishery at the relevant time;

‘U’ is the unit value.

Dated this 17th day of February 1995

MONTY HOUSE, Minister for Fisheries

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Original Management Plan and Amendment Information:

Cockburn Sound (Line and Pot) Management Plan 1995 was first published in Government Gazette No. 25 on 24.02.95. (p.616-619).

Amendments: Cockburn Sound (Line and Pot) Fishery Management Plan Amendment 1998 published in Government Gazette No. 233 on 27.11.98. (p. 6340-6341); *Cockburn Sound (Line and Pot) Fishery Management Plan Amendment 2003* published in Government Gazette No. 170 on 28.10.03. (p. 4537); *Cockburn Sound (Line and Pot) Management Plan Amendment 2015* published in Government Gazette No. 51 on 02.04.15. (p. 1193-1196).

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