

Fish Resources Management Act 1994

PILBARA CRAB MANAGED FISHERY MANAGEMENT PLAN 2018

FD 7100/16 [1314]

Made by the Minister under section 54.

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This compilation was prepared taking into account amendments up to and including the *Pilbara Crab Managed Fishery Management Plan Amendment 2019* published in Government Gazette No. 166 on 22/11/2019.

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PART 1 - PRELIMINARY

1. Citation

This plan is the *Pilbara Crab Managed Fishery Management Plan 2018*.

2. Commencement

This Plan will commence operation on 1 November 2018.

3. Interpretation

In this plan, unless the contrary intention appears -

authorised boat means the boat used for or in connection with fishing under the authority of a licence, the name and licensed fishing boat number of which is specified on the licence;

crab means fish of the Family Portunidae, excluding crab of the genus *Scylla*;

crab trap means a device for taking crabs, as described in clause 22;

current entitlement means the usual entitlement conferred by a licence as -

- (a) increased by any entitlement transferred to the licence; or
- (b) decreased by any entitlement transferred from the licence;

Fishery means the Pilbara Crab Managed Fishery identified in clause 5;

fishing return means a return in a form approved by the CEO from time to time under the Act for recording the catch of crabs taken under the authority of a licence;

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licence means a managed fishery licence authorising a person to fish in the Fishery;

licence period means the period provided for in clause 7;

plan means the *Pilbara Crab Managed Fishery Management Plan 2018*;

pull means, in relation to crab traps, to bring crab traps from the seabed to the surface;

total fee means the product of the fee (per unit) specified in Schedule 3 and the number of units of usual entitlement conferred by a licence;

unit value means the value of a unit of entitlement, determined in accordance with clause 15;

usual entitlement means the entitlement conferred by a licence without regard to any entitlement temporarily transferred to or from the licence.

4. Procedure before this plan may be amended or revoked

The licence holders are the persons to be consulted before this plan may be amended or revoked.

PART 2 - THE FISHERY

5. Identification and declaration of the Fishery

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

(2) The Fishery is a managed fishery, and may be referred to as the Pilbara Crab Managed Fishery.

(3) The Fishery is divided into Areas, as specified in Schedule 1.

PART 3 - LICENCES AND FEES

6. Criteria for the grant of a licence

(1) The criteria to be satisfied before the CEO may grant a person a licence to fish in the Fishery are that -

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- (a) on 1 December 2017 the applicant was authorised to take crab under the authority of an authorisation, subject to exemption number 3012 issued in accordance with section 7 of the Act; and
- (b) an application for the grant of a licence is made on or prior to 1 December 2018.

(2) Notwithstanding subclause (1), the CEO may grant a person a licence to fish in the Fishery if the CEO is satisfied that -

- (a) immediately upon being granted a licence an application will be made to transfer usual units of entitlement to the licence, if it is granted, from another licence; and
- (b) the application referred to in paragraph (a) will be in respect of a total of not less than one unit; and
- (c) in the CEO's opinion, there is no arguable ground in respect of the application referred to in paragraph (a) to refuse to transfer the units of usual entitlement to the licence; and
- (d) the applicant is a fit and proper person.

7. Duration of a licence

A licence expires on 31 October next following the date of grant or renewal.

8. Items to be specified on a licence

A licence granted or renewed in respect of the Fishery must specify -

- (a) the name and business address of the holder of the licence;
- (b) the authorised boat;
- (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 areas of the Fishery in which the licence holder may operate;
- (h) the number of usual units of entitlement conferred by the licence;
- (i) the number of current units of entitlement conferred by the licence;
- (j) the unit value in respect of each unit conferred by the licence;
- (k) any conditions imposed on the licence by the CEO.

9. Fees

For the purposes of regulation 137(2) the total fee may be paid by instalments as specified in Schedule 3 if -

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- (a) an election to pay by instalments is made by the holder of a licence in accordance with subclause (3); 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 (2) must be -
- (a) made in writing;
 - (b) received at an office of the Department on or before 1 November 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 shall be 3.13% of the total fee.

PART 4 - CAPACITY OF THE FISHERY

10. Capacities of the Fishery

- (1) The capacity of the Fishery with respect to Area A is 300 crab traps.
- (2) The capacity of the Fishery with respect to Area B is 300 crab traps.

PART 5 - SCHEME OF ENTITLEMENT

11. Licence entitlements to equal capacity

The sum of all the entitlements to fish for crab in an Area of the Fishery that may be conferred by all the licences conferring an entitlement for that Area is to be equal to the capacity of the Fishery for that Area.

12. Entitlement to be expressed in terms of units

- (1) The entitlement to fish for crab conferred by a licence is to be -
 - (a) expressed in terms of units of entitlement for an Area of the Fishery; and
 - (b) determined in accordance with clause 15.
- (2) The maximum number of units that may be 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 s.139 of the Act; or
 - (b) a licence is cancelled; or

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(c) units are forfeited by the operation of the Act.

13. Conferral of entitlement

Where a licence is granted in accordance with clause 6 (1) the licence will, at the time it is granted, confer -

- (a) 600 units of usual entitlement with respect to Area A; and
- (b) 600 units of usual entitlement with respect to Area B.

14. Authority of a licence of no effect where entitlement is less than 400 units.

The authority of a licence is of no effect where the usual or current entitlement conferred by the licence is less than 400 units of entitlement.

15. Unit values

The extent of the entitlement to fish arising from time to time from a unit (the unit value) is determined in accordance with Schedule 4, and is limited by reference to a number of crab traps that may be used.

16. Prohibitions in respect of conferred entitlement

A person must not fish in the Fishery under the authority of a licence -

- (a) where the current entitlement conferred by a licence is less than 400 units; or
- (b) by means of more crab traps than equates to the current entitlement of the licence.

PART 6 - TRANSFER OF ENTITLEMENT

17. Grounds for refusing to transfer a licence, an entitlement, or part of an entitlement

For the purposes of section 140(2) of the Act the CEO may refuse to transfer a licence, an entitlement, or part of an entitlement, on the grounds that -

- (a) the proposed transfer is not for a whole number of units; or
- (b) the total fee with respect to the transferor's licence has not been paid; or

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- (c) the CEO is of the opinion that the holder of a licence (from which units of entitlement are to be transferred from or to) may be liable to prosecution for an offence prescribed for the purposes of section 224 of the Act.

18. Temporary transfer of entitlement

A unit of entitlement may be temporarily transferred from one licence to another licence, for a period ending at the time the licence expires, provided that -

- (a) the transfer is for a whole number of units; and
(b) the total fee in respect of the licence has been paid when it became due.

19. Reduction of entitlement conferred by a licence

(1) Where -

- (a) a person is convicted for an offence against section 74 of the Act relating to exceeding the current entitlement conferred by a licence; and
(b) a court has determined the extent by which the restriction was exceeded, the CEO is to reduce the number of usual units of entitlement conferred by the relevant licence.

(2) For the purposes of subclause (1), the number of units of entitlement conferred by the licence is to be reduced by the number of units that were fished in excess of the current entitlement at the time of the offence.

20. Surrender of licence and reallocation of usual entitlement

(1) The criteria to be satisfied before the CEO will increase the usual entitlement conferred by a licence are that -

- (a) an application to increase the usual entitlement conferred by a licence is made by the holder of a licence;
(b) another licence has been surrendered under section 144 of the Act;
(c) the person who was the holder of the surrendered licence has consented to the application referred to in paragraph (a); and
(d) the CEO is of the opinion that the person who was the holder of the surrendered licence is not liable to prosecution for an offence that is prescribed for the purposes of section 224 of the Act.

(2) The entitlement of a licence must not be increased by more than the usual entitlement conferred by the surrendered licence.

(3) Subclause (1) applies once in connection with the surrender of any licence.

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(4) For the purposes of subclause (1)(a) a reference to a licence includes a reference to a licence which has been applied for in accordance with clause 6(2) of this plan.

PART 7 - GENERAL REGULATION OF FISHING

21. Use of boats

- (1) A person must not use a boat in the Fishery unless -
- (a) the person is the holder of a licence, and the boat is an authorised boat; or
 - (b) the person is acting for or on behalf of the holder of the licence, and the boat is an authorised boat; or
 - (c) the person is fishing for crab for a non-commercial purpose and the boat is not an authorised boat.
- (2) Subclause (1) does not apply in respect of persons fishing by boat under the authority of an authorisation issued with respect to a management plan specified in Schedule 5.

22. Fishing by means of crab trap - general restrictions

(1) For the purposes of this clause -

24 hour period means a period commencing at midnight on any day.

(2) A person fishing in the Fishery under the authority of a licence must not fish by any means other than by crab trap.

(3) A person must not use a crab trap to fish for crabs in the Fishery unless that trap is an 'hourglass' trap, comprising two circular components no greater than 550 millimetres apart, and with neither component having -

- (a) a diameter greater than 1200 millimetres; or
- (b) mesh size of less than 75 millimetres.

(4) A crab trap must -

- (a) be attached to a non-buoyant rope with a surface float branded or stamped with the Licensed Fishing Boat number of the authorised boat, in legible characters; or
- (b) be attached to another crab trap, and a float of the type mentioned in paragraph (a) must be attached at each end of the line of crab traps.

(5) The maximum number of crab traps that may be used in a line of traps is 20.

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- (6) A person fishing in the Fishery under the authority of a licence -
- (a) must not allow a crab trap to remain in the water for longer than 48 hours; and
 - (b) must not pull and empty a crab trap more than once in any 24-hour period.
- (7) The master of an authorised boat must not -
- (a) use in the Fishery; or
 - (b) carry on an authorised boat,
- more crab traps than the number of traps corresponding to the current entitlement conferred by the licence.
- (8) Subparagraph (7)(b) does not apply where the master of an authorised boat has reported lost crab traps pursuant to clause 23.
- (9) This clause does not apply in respect of a person fishing for crab under the authority of an authorisation issued with respect to a management plan specified in Schedule 5.

23. Reporting of lost crab traps

- (1) The master of an authorised boat must report to the Karratha branch of the Department any lost or irretrievable crab traps used for fishing -
- (a) by email to karrathacompliance@dpird.wa.gov.au; or
 - (b) by telephone; and
 - (c) in the relevant fishing return for the nominated period in which the traps were lost or could not be retrieved.
- (2) A report of lost or irretrievable crab traps in a fishing return must specify -
- (a) the quantity and type of traps; and
 - (b) the last known location of the traps.
- (3) If the master of an authorised boat finds crab traps which have been reported as lost or irretrievable, pursuant to subclause (1), the master must report the finding of those traps to the Karratha branch of the Department -
- (a) by email to karrathacompliance@dpird.wa.gov.au; or
 - (b) by telephone; and
 - (c) in the relevant fishing return for the nominated period in which the traps were found.

24. CEO may permit fishing by non-specified means

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(1) The CEO may, by notice published in the Gazette, permit persons fishing in the Fishery to fish by means of gear that would otherwise be prohibited by this plan if, in the opinion of the CEO the use of different means will provide for sustainable management of the Fishery.

(2) A notice made pursuant to subclause (1) -

(a) must specify the gear that is permitted to be used in the Fishery;

(b) must specify the period of time for which the notice is in effect;

(c) may only be made after consultation with all the licence holders entitled to fish in the Fishery; and

(d) must take into account any advice received from the Department's Director Fisheries Science and Resource Assessment, or person occupying the equivalent position.

PART 8 - PROHIBITIONS AND OFFENCES

25. Persons prohibited from fishing in the Fishery

(1) Subject to subclauses (2), 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) a person fishing under the authority of an authorisation issued with respect to a management plan specified in Schedule 5; or

(b) a person fishing for crab for a non-commercial purpose in accordance with the Act.

26. Prohibition on fishing for crab

(1) A person must not fish for crab at any time in a closed area of the Fishery described in Schedule 2.

(2) Subclause (1) does not apply in respect of persons fishing by boat under the authority of an authorisation issued with respect to a management plan specified in Schedule 5.

(3) A person must not fish for crab between 15 August and 15 November in any year.

(4) The master of an authorised boat must not -

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- (a) take crabs, or pull a crab trap on board a boat, in the Fishery, or a specified part of the Fishery; or
- (b) store or transport any crab on board a boat in the Fishery, or a specified part of the Fishery -
 - (i) at any time in the waters specified in Schedule 2; or
 - (ii) during the period specified in subclause (3).

(5) A person fishing under the authority of a licence conferring entitlement for Area A only must not fish in Area B.

27. Prohibition on possession of crab

(1) For the purposes of this clause -

bait means fish -

- (a) taken lawfully under an authorisation; or
- (b) for which proof of purchase can be provided on demand.

octopus means fish of that common name described by the scientific classification opposite that name in Schedule 7 to the regulations.

(2) A person fishing in the Fishery under the authority of a licence must not be in possession of fish other than blue swimmer crab (*Portunus armatus*), three spot sand crab (*Portunus sanguinolentus*), ridged swimming crab (*Charybdis natator*), or coral crab (*Charybdis feriata*).

(3) Subclause (2) does not apply with respect to bait or octopus.

(4) A person fishing in the Fishery under the authority of a licence must not -

- (a) be in possession of; or
- (b) consign,

blue swimmer crab (*Portunus armatus*) of a length less than 135 millimetres.

(5) Any blue swimmer crab (*Portunus armatus*) of a length less than 135 millimeters in length must be returned to the water immediately.

(6) A person other than a person fishing -

- (a) in the Fishery under the authority of a licence; or
- (b) for a non-commercial purpose in accordance with the Act; or

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- (c) under the authority of an authorisation issued with respect to a managed fishery specified in Schedule 5; or
 - (d) under the authority of a managed fishery licence for another managed fishery that authorises the take of crab,
- must not be in possession of crab.

28. Prohibition on fishing under the authority of more than one licence

- (1) A person must not take crabs in the Fishery under the authority of more than one licence on any trip using the same authorised boat.
- (2) A person must not commence fishing under the authority of a licence until all crabs taken under the authority of a different licence have been removed from the authorised boat.

29. Prohibition on selling, dealing, or attempting to deal, with crab

- (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 crab taken, 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 crab, unless that crab was taken and landed under the authority of a licence.

PART 9 - MISCELLANEOUS PROVISIONS

30. Notice of closure of area of the Fishery

- (1) The CEO may make a notice prohibiting -
 - (a) fishing in the Fishery, or any part of the Fishery; or
 - (b) the take of a particular species; or
 - (c) the use of particular gear,
 if, in the opinion of the CEO, fishing activities in the Fishery create high levels of risk with respect to -
 - (i) the sustainability of fish stocks; or

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(ii) the mortality of threatened, endangered, or protected species.

(2) A notice made in accordance with subclause (1) -

- (a) may only be made after consultation with all the licences holders;
- (b) must take into account advice received from the Department's Director Fisheries Science and Resource Assessment, or person occupying the equivalent position; and
- (c) may be made to apply at all times or at any specified time; and
- (d) must state the dates, times, and areas where fishing is to be prohibited; and
- (e) must be provided to each licence holder authorised to operate in the Fishery; and
- (f) revokes any previous notice made under that subclause; and
- (g) takes effect on the date of Gazettal of the notice.

(3) A person must not fish for crab in the Fishery, or a specified part of the Fishery, at any time when fishing in the Fishery, or that specified part of the Fishery, has been prohibited by a notice made under subclause (1).

(4) The master of an authorised boat must not -

- (a) take crabs, or pull a crab trap on board a boat, in the Fishery, or a specified part of the Fishery; or
- (b) store or transport any crab on board a boat in the Fishery, or a specified part of the Fishery,

at any time when fishing in the Fishery, or that specified part of the Fishery, has been prohibited by a notice made under subclause (1).

31. Offences

A person who contravenes clause 16, 21, 22, 23, 25, 26, 27, 28, 29, or 30 commits an offence.

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SCHEDULE 1 Description of the Fishery

[clause 5]

All Western Australian waters off the north-western coast of Western Australia north of 23° 34' south latitude and west of 120° 00' east longitude.

Area A:

All waters of the Fishery north of 23° 34' south latitude and west of 120° 00' east longitude; but excluding the waters of Area B.

Area B:

All waters of the Fishery bounded by a line commencing at the intersection of 20° 31.61' south latitude and 116° 52' east longitude (on the mainland at Sloping Point); thence extending north-easterly along the geodesic to the intersection of 20° 25.22' south latitude and 116° 57.141' east longitude (on Legendre Island); thence extending due east along the parallel to the intersection of 20° 25.22' south latitude and 117° 11' east longitude; thence extending due south along the meridian to the intersection of 20° 35.55' south latitude and 117° 11' east longitude (on the mainland at Cape Lambert); thence extending westerly along the geodesic to the intersection of 20° 35.60' south latitude and 117° 10.35' east longitude (on the mainland); thence extending westerly along the geodesic to the intersection of 20° 37' south latitude and 117° 05.35' east longitude (on Dixon Island); thence extending northerly along the geodesic to the intersection of 20° 34.90' south latitude and 117° 05.90' east longitude; thence extending westerly along the geodesic to the intersection of 20° 39' south latitude and 116° 55' east longitude; thence extending westerly along the geodesic to the intersection of 20° 37.50' south latitude and 116° 48.15' east longitude (on the mainland); thence generally northerly along the high water mark to the commencement point.

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SCHEDULE 2 Closed areas of the Fishery

[clause 26]

1. All waters of the Fishery north of 23° 34' south latitude and west of 115° 06.50' east longitude.
2. All waters of the Fishery within any tidal creek or river, including waters within 400 metres of the mouth of any tidal creek or river.
3. All waters of the Fishery within a radius of five (5) nautical miles of the intersection of 32° 38.47' south latitude and 115° 07.28' east longitude (at Beadon Creek groyne).
4. All waters of the Fishery bounded by a line commencing at the intersection of 20° 31.61' south latitude and 116° 52' east longitude (on the mainland at Sloping Point); thence extending north-easterly along the geodesic to the intersection of 20° 25.22' south latitude and 116° 57.141' east longitude (on Legendre Island); thence generally north-westerly along the high water mark on the southern side of Legendre Island to the intersection of 20° 21.597' south latitude and 116° 49.82' east longitude (on Legendre Island); thence extending south-westerly along the geodesic to the intersection of 20° 32.615' south latitude and 116° 40.481' east longitude (on Whittaker Island); thence extending south-westerly along the geodesic to the intersection of 20° 34.07' south latitude and 116° 33.086' east longitude (on Enderby Island); thence generally easterly then south-westerly along the high water mark on the southern side of Enderby Island to the intersection of 20° 36.541' south latitude and 116° 27.802' east longitude (on Enderby Island); thence extending southerly along the geodesic to the intersection of 20° 39.91' south latitude and 116° 27.091' east longitude (on Eaglehawk Island); thence extending south-easterly along the geodesic to the intersection of 20° 43.956' south latitude and 116° 34.644' east longitude (on West Intercourse Island); thence extending south-easterly along the geodesic to the intersection of 20° 44.636' south latitude and 116° 35.914' east longitude (on the mainland); thence generally north-easterly along the high water mark to the commencement point.
5. All waters of the Fishery bounded by a line commencing at the intersection of 20° 41.75' south latitude and 117° 13.20' east longitude (on the mainland); thence extending due north along the meridian to the intersection of 20° 39.50' south latitude and 117° 13.20' east longitude; thence extending northerly along the geodesic to the intersection of 20° 37.60' south latitude and 117° 13' east longitude; thence extending northerly along the geodesic to the intersection of 20° 36.30' south latitude and 117° 12.40' east longitude; thence extending north-westerly along the geodesic to the

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intersection of 20° 35.55' south latitude and 117° 11' east longitude (on the mainland at Cape Lambert); thence extending westerly along the geodesic to the intersection of 20° 35.60' south latitude and 117° 10.35' east longitude (on the mainland); thence extending westerly along the geodesic to the intersection of 20° 37' south latitude and 117° 05.35' east longitude (on Dixon Island); thence extending northerly along the geodesic to the intersection of 20° 34.90' south latitude and 117° 05.90' east longitude; thence extending westerly along the geodesic to the intersection of 20° 39' south latitude and 116° 55' east longitude; thence extending westerly along the geodesic to the intersection of 20° 37.50' south latitude and 116° 48.15' east longitude (on the mainland); thence generally easterly along the high water mark to the commencement point.

6. All waters of the Fishery bounded by a line commencing at the intersection of 20° 19.824' south latitude and 118° 20.69' east longitude (on the mainland); thence extending north-easterly along the geodesic to the intersection of 20° 15' south latitude and 118° 35' east longitude; thence extending south-easterly along the geodesic to the intersection of 20° 17.053' south latitude and 118° 46.044' east longitude (on the mainland); thence generally westerly along the high water mark to the commencement point.

SCHEDULE 3

Fees

[clause 9]

Where regulation 137(2) applies 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 November in any year;
- b) the second instalment being 25% of the total fee and due for payment on or before 1 February following the day on which the first instalment is paid;
- c) the third instalment being 50% of the total fee and due for payment on or before 1 May following the day on which the first instalment is paid.

SCHEDULE 4

Determination of unit values

[clause 15]

Item 1. The value of a unit for the period 1 November 2018 to 31 October 2019 is 0.5 crab traps.

Item 2. At any time that Item (1) of this Schedule does not apply, the extent of the entitlement to fish in the Fishery arising from a unit and during a licence period is determined in accordance with the following equation -

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This compilation was prepared taking into account amendments up to and including the *Pilbara Crab Managed Fishery Management Plan Amendment 2019* published in Government Gazette No. 166 on 22/11/2019.

$$\left(\frac{C}{N} \right) = U$$

Where -

- C is the capacity (total number of crab traps);
- N is the sum of all of the units conferred, as specified on all the licences at the commencement of the relevant licence period;
- U is the value of the unit, rounded to two decimal places.

SCHEDULE 5

Management plans to which certain exceptions apply

[clauses 21, 22, 25, 26, 27, 29]

Exmouth Gulf Prawn Fishery Management Plan 1989

Nickol Bay Prawn Fishery Management Plan 1991

Onslow Prawn Fishery Management Plan 1991

West Coast Deep Sea Crustacean Managed Fishery Management Plan 2012

Dated 16th of September 2018

Minister for Fisheries

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