

FISHERIES ACT 1905

SHARK BAY PRAWN LIMITED ENTRY FISHERY NOTICE 1993

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FISHERIES ACT 1905

SHARK BAY PRAWN LIMITED ENTRY FISHERY NOTICE 1993
Notice No. 595

FD 146/75.

Made by the Minister under section 32.

1. Citation

This notice may be cited as the *Shark Bay Prawn Managed Fishery Management Plan 1993*.

2. Interpretation

In this plan unless the contrary intention appears -

ALC means an Automatic Location Communicator as defined in regulation 55A of the regulations;

approved directions for use means the directions of an ALC given by the CEO in a notice in writing to the master of an authorized boat or a licence holder;

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

closed area means -

- (a) an area of waters described in a notice made in accordance with clause 10(1); or
- (b) an area of waters described in Item 2 of the Schedule;

cod end means that part of an otter trawl net furthest from the boat when the net is being towed, and which forms a pocket and acts as a receptacle for fish;

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 Shark Bay Prawn Managed Fishery declared under Clause 3;

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fish escape device means an opening aft of the grid in the top part of a standard net, and within which may be incorporated mesh;

gear trial area means an area of waters designated as a gear trial area in a notice gazetted pursuant to clause 10(1);

grid means a device fitted within a standard net, or any modification made to a trawl net, which assists large marine animals to escape;

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;

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

licence period means the period provided for in clause 7B;

otter board means a board or plate used on an otter trawl net which, while the net is being towed, keeps the mouth of the net open;

otter trawl net means a fishing net designed or intended to be towed by a boat and having its mouth or opening controlled by otter boards;

plan means the *Shark Bay Prawn Managed Fishery Management Plan 1993*;

prawn means the fish of that common name described by the scientific classification opposite that name in Column 2 of Schedule of the regulations;

regulations means the *Fish Resources Management Regulations 1995*;

standard net means an otter trawl net with a headrope length greater than 5 metres;

stream means to tow an otter trawl net on the surface of the water with the cod end open;

try net means an otter trawl net with a headrope length not exceeding 5 metres;

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underway means that a boat is not at anchor, or made fast to the shore or aground; and

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

3. Declaration of limited entry fishery

(1) It is hereby declared that the taking of prawns from the waters described in Item 1 of the Schedule shall constitute a limited entry fishery to be called the Shark Bay Prawn Managed Fishery.

(2) The Fishery is divided into the areas specified in the Schedule.

4. Prohibition on fishing for prawns

(1) A person must not fish for prawns 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 with respect to a person fishing for prawns for a non-commercial purpose and in accordance with the Act.

5. Prohibition on selling or dealing with, or attempting to sell or deal with, prawns

(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, any prawns taken from 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, any prawns taken from the Fishery unless the prawns are taken and landed by the holder of a commercial fishing licence under the authority of an authorisation.

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5A. Prohibition on transfer of fish

(1) The master of an authorised boat must not permit any fish taken in the Fishery to be transferred -

- (a) to another boat from; or
 - (b) from another boat to,
- the authorised boat.

(2) A person must not transfer fish -

- (a) to another boat from; or
 - (b) from another boat to,
- an authorised boat.

(3) A person must not be in possession of fish transferred from one boat to another.

(4) Subclauses (1), (2) and (3) do not apply in respect of fish transferred to a carrier boat.

6. Criteria to determine the boats which may operate in the Fishery

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 boat was authorised to take prawns in the Shark Bay Prawn Limited Entry Fishery; or
- (b) the boat replaces a boat to which paragraph (a) applied.

7. Application for a licence

(1) The owner 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.

(2) A person making an application pursuant to subclause (1) must apply on or before 31 July 2018.

7A. Additional criteria for the grant of a licence

(1) Notwithstanding clauses 6 and 7, the CEO may grant a person a licence to fish in the Fishery if the CEO is satisfied that -

- (a) immediately upon grant, an application will be made under section 140 of the Act to transfer a minimum number of usual units of entitlement to the licence, if it is to be granted, from another licence; and
- (b) the application referred to in paragraph (a) will be in respect of a total of not less than 81 units; and

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- (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 person is a fit and proper person to hold a licence.

(2) For the purposes of subclause (1) a reference to an application to transfer usual units of entitlement shall be taken to include an application made in connection with the surrender of a licence pursuant to clause 12C of this plan.

7B. Duration of licences

A licence expires on 1 March next following the date of grant or renewal.

8. Items that must be specified on a licence

A licence must specify -

- (a) the name and address of the holder of the licence;
- (b) the name and licensed fishing boat number of any licensed fishing boat which may be used for or in connection with fishing in the Fishery under the authority of that 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 conferred by the licence;
- (h) the number of current units of entitlement conferred by the licence;
- (i) any conditions imposed on the licence by the CEO.

[9. Deleted in Gazette 31 Jul 2018 p.2716.]

10. Closure and designation of areas within the Fishery

(1) The CEO may, by notice published in the *Gazette* -

- (a) prohibit all fishing in the Fishery, or any part of the Fishery, for the period specified in the notice if, in the opinion of the CEO, it will provide for sustainable management of the Fishery; and
- (b) permit the trialling of gear in the Fishery, or any part of the Fishery, for the period specified in the notice, in an area designated as a gear trial area

(2) A notice made under subclause (1) -

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

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- (b) must take into account any advice received from the Department's Director Fisheries Science and Resource Assessment; and
 - (c) may be made to apply at all times or at any specified time.
- (3) The CEO may, by notice published in the *Gazette*, revoke a notice made under subclause (1).
- (3) A person must not fish in the Fishery, or a specified part of the Fishery, at any time that fishing in the Fishery, or a specified part of the Fishery, has been prohibited by a notice made under subclause (1).
- (4) A person must not trial gear in the Fishery, or a specified part of the Fishery, at any time that trialling gear in the Fishery, or a specified part of the Fishery, is not permitted by a notice made under subclause (1).
- (6) A person must not fish in a closed area.
- (7) The master of an authorised boat must not enter a closed area.
- (8) Subclause (7) does not apply -
- (a) where a vessel is travelling at a speed of -
 - (i) less than 1 knot; or
 - (ii) greater than 5 knots, or
 - (b) between 0800 hours and 1700 hours.
- (9) For the purposes of subclause (8), when determining the speed of a vessel utilising an ALC, the method for calculating speed is -
- (a) for each consecutive pair of position reports transmitted, or stored, by the boat's ALC, identify the shortest distance between the pair in a straight line; and
 - (b) divide the distance (nautical miles) calculated in accordance with paragraph (a) by the time difference (hours) between the two consecutive position reports.

11. Authorised means of operating in the Fishery

- (1) A person must not take or attempt to take prawns in the Fishery other than -
- (a) as provided for in subclauses (2) and (3); or
 - (b) as prescribed in a notice issued in accordance with clause 11A.

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- (2) A person must not fish in the fishery by means of -
- (a) more than four standard nets; or
 - (b) standard nets with a combined headrope length exceeding 58.4 metres; or
 - (c) more than one try net.
- (3) A standard net used in the Fishery -
- (a) must not be artificially heightened; and
 - (b) must have attached to each end of the headrope a single otter board, the measurements of which do not exceed -
 - (i) a height of 1.1 metre; or
 - (ii) a surface area of 2.64 square metres,and having otter board shoes that do not exceed -
 - (iii) 160 millimetres in width; or
 - (iv) 37 millimetres in depth, and
 - (c) must be fitted with a rigid barrier grid comprised of bars extending from the top to the bottom of the grid and attached to the entire circumference of the net, which must guide large animals and fish towards an escape opening, which -
 - (i) has a maximum spacing of 200 millimetres between bars (measured from inside bar to inside bar); and
 - (ii) has an opening positioned where the trailing edge of the grid is attached to the net, with minimum measurements (measured when the net is taut) of -
 - (I) 750 millimetres transversely across the net; and
 - (II) 500 millimetres from the leading edge that forms the escape opening, when pulled taut at 90 degrees to the trailing edge of the grid, and
 - (iii) must open outwards, and
 - (d) must be fitted with a fish escape device which consists of -
 - (i) a square or rectangular opening not less than 400 millimetres by 300 millimetres; or
 - (ii) a triangular opening with no side measuring less than 300 millimetres,and which -
 - (I) where mesh is fitted, has meshes hung perpendicular to the headrope, and which are of a mesh size not less than 100 millimetres, as determined in accordance with regulation 64D; and
 - (II) must not contain netting or any other material or device that may inhibit the escape of fish, other than mesh referred to in sub-subparagraph (I), and
 - (e) must have attached one ground chain, the links of which do not exceed 10 millimetres in diameter.

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(4) The licence holder or master of a boat authorised to be operated in the Fishery must not operate by the use of a boat greater than 24.99 metres in length as specified on the Certificate of Survey.

(5) The licence holder or master of a boat authorised to be operated in the Fishery must not operate in excess of the entitlement conferred by the licence.

Note: The surface area of an otter board is calculated by multiplying the height of the board as measured at its greatest height, by the length of the board as measured at its greatest length.

11A. CEO may permit fishing by non-specified means

(1) The CEO may, by notice published in the *Gazette*, permit persons fishing in the Fishery to fish by means 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 Fishery

(2) A notice made under subclause (1) -

- (a) must specify the means that are permitted to be used in the fishery;
- (b) may only be made after consultation with all licence holders entitled to fish in the Fishery;
- (c) must take into account any advice received from the Department's Director Fisheries Science and Resource Assessment;
- (d) may be made to apply at all times or at any specified time; and
- (e) may be revoked or amended.

11B. Capacity of the Fishery

(1) In this clause -

capacity means the maximum headrope length that may be used under the authority of all the licences in the Fishery.

(2) The capacity of the Fishery -

- (a) for the licence period ending on 1 March 2024, is 486 metres; and
- (b) for the licence periods commencing -
 - (i) on 2 March 2024; and
 - (ii) on 2 March in any subsequent year,

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is 364.5 metres.

- (3) The headrope length specified in subclause (2) does not include the headrope length of try nets.

12. Conferral of net entitlement

- (1) On 31 July 2018 the usual entitlement to fish for prawns conferred by a licence will be 81 units of headrope length.

- (2) A unit of headrope length consists of -

- (a) for the licence period ending on 1 March 2024, 33.34 centimetres of headrope; and
(b) for the licence periods commencing -
(i) on 2 March 2024; and
(ii) on 2 March in any subsequent year, 25 centimetres of headrope.

- (3) The maximum number of units that may be used by a person fishing from an authorised boat is to be specified on the licence accordingly.

12A. Temporary transfer of entitlement

An entitlement conferred by a licence may be temporarily transferred to another licence for a period ending at the expiry of the licence to which the entitlement is conferred, provided that the transfer is for a whole number of units.

12B. Grounds to refuse a transfer of a licence, entitlement, or part of entitlement

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

- (a) the proposed transfer is not for a whole number of units; or
(b) the total fee payable with respect to the transferor's licence has not been paid, notwithstanding clause 21; or
(c) the CEO is of the opinion that the holder of a licence (from which units 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.

12C. 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;

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- (b) an application to increase the usual entitlement conferred by a licence is for no more than 1 unit;
- (c) another licence has been surrendered under section 144 of the Act; and
- (d) the person who was the holder of the surrendered licence has consented to the application referred to in paragraph (a).

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

13. Gear trialling and stowage

(1) In this clause -

fishing season means the dates specified in a Notice made pursuant to clause 10;

pre-season gear trial period means the 14-day period prior to the start of the fishing season.

(2) Otter boards, warp wires and otter trawl nets carried by or attached to any boat must be secured to that boat and kept out of the water -

- (a) between 0800 and 1700 hours in the areas of the Fishery that are not closed areas; and
- (b) at all times in closed areas.

(3) Subclause (2)(a) does not apply with respect to -

- (a) streaming otter trawl nets from a vessel; or
- (b) a person operating in accordance with the terms of a Notice gazetted pursuant to clause 10; or
- (c) a person operating in the gear trial area during the pre-season gear trial period where -
 - (i) no fish are held on board, or landed from, the authorised boat; and
 - (ii) trials are undertaken during daylight hours; or
- (d) a person operating in the gear trial area during the fishing season where -
 - (i) the cod-end is open; and
 - (ii) trials are undertaken during daylight hours.

13A. Requirements relating to the installation of an ALC

(1) For the purposes of this clause “approved” and “approved person” have the same meaning as provided for in regulation 55A of the regulations.

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- (2) A person must not use an authorised boat in the Fishery unless an ALC has been installed in that boat in accordance with the approved directions for use and by an approved person.
- (3) A person must not use an authorised boat in the Fishery unless -
 - (a) the ALC installed in that boat has been serviced in accordance with the approved directions, by an approved person and at intervals specified by the CEO in the approved directions;
 - (b) the ALC is used in the manner specified in the approved directions.
- (4) It is a condition of a licence that the authorised boat must not be used in the Fishery unless-
 - (a) an ALC is installed in the boat;
 - (b) the ALC is serviced in accordance with the approved directions for use, by an approved person and at intervals specified by the CEO 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.
- (5) It is a condition of a licence that regulation 55C of the regulations is complied with at all times.

[13B, 14, 15, 16, 17, 18, 19 Deleted in Gazette 31 Jul 2018 p.2716.]

21. Payments by instalments

- (1) For the purposes of regulation 137(2) of the regulations, the total fee may be paid by instalments as specified in Item 4 of the Schedule 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 prior to the commencement of the licensing period to which the election relates;
 - (c) accompanied by the first instalment plus the surcharge.
- (3) For the purposes of regulation 137(3) of the regulations, the surcharge shall be 3.13% of the total fee.

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- (4) A person acting under the authority of a licence must not fish in the Fishery at any time when any fee or surcharge payable in respect of the licence is outstanding.

21A. Offences

A person who contravenes a provision of clause 4, 5, 5A, 10, 11, 13, 13A, or 21 commits an offence.

21B. Procedure before this Plan may be amended

For the purposes of section 65(1) of the Act, all licence holders are the persons to be consulted before this Plan is amended or revoked.

22. Procedure before this Plan may be amended

The following notices are cancelled -

Number	Date published in the <i>Gazette</i> .
449	27 April 1990
482	15 March 1991
494	03 May 1991
535	06 March 1992
535	09 May 1992 (Erratum)

Schedule

Item 1 (The Fishery)

All Western Australian waters bounded by a line commencing at the intersection of 23° 34' south latitude and 113° 42.50' east longitude (on the mainland); thence extending due west along the parallel to the intersection of 23° 34' south latitude and 113° 03.37' east longitude; thence extending south-westerly along the geodesic to the intersection of 23° 36' south latitude and 113° 02' east longitude; thence extending south-westerly along the geodesic to the intersection of 24° 06' south latitude and 112° 37' east longitude; thence extending south-westerly along the geodesic to the intersection of 24° 25' south latitude and 112° 25' east longitude; thence extending south-westerly along the geodesic to the intersection of 24° 39' south latitude and 112° 19' east longitude; thence extending southerly along the geodesic to the intersection of 25° 00' south latitude and 112° 14' east longitude; thence extending southerly along the geodesic to the intersection of 25° 33' south latitude and 112° 12' east longitude; thence extending southerly along the geodesic to the intersection of 26° 00' south latitude and 112° 18' east longitude; thence extending south-easterly along the geodesic to the intersection of 26° 24' south latitude and 112° 30' east longitude; thence extending south-easterly along the geodesic to the intersection of 26° 30' south latitude and 112° 33.25' east longitude; thence extending due east along the parallel to the

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This compilation was prepared taking into account amendments up to and including the *Shark Bay Prawn Fishery Management Plan Amendment 2023* published in Government Gazette No.7 on 27.1.2023

intersection of 26° 30' south latitude and 113° 24' east longitude (on the mainland); thence generally northerly along the high water mark to the commencement point.

Item 2 (Closed Areas)

That area of the Fishery -

(a) south of a line commencing at the intersection of 26° 00.94' south latitude and 113° 17.97' east longitude (on the mainland near Cape Bellefin); thence extending due east along the parallel to the intersection of 26° 00.94' south longitude and 113° 34.52' east longitude (on Peron Peninsula); and

(b) south and east of a line commencing at the intersection of 25° 30.30' south latitude and 113° 30.60' east longitude (at Cape Peron North); thence extending due north along the meridian to the intersection of 25° 20.40' south latitude and 113° 30.60' east longitude; thence extending south-easterly along the geodesic to the intersection of 25° 26' south latitude and 113° 40' east longitude; thence extending due east along the parallel to the intersection of 25° 26' south latitude and 113° 55.56' east longitude (on the mainland); and

(c) bounded by a line commencing at the intersection of 24° 45.285' south latitude and 113° 09.593' east longitude (on Bernier Island near Cape Ronsard); thence extending northerly along the geodesic to the intersection of 24° 44.90' south latitude and 113° 09.70' east longitude (near Koks Island); thence extending south-easterly along the geodesic to the intersection of 24° 45.30' south latitude and 113° 10.50' east longitude; thence extending southerly along the geodesic to the intersection of 24° 49' south latitude and 113° 11' east longitude; thence extending southerly along the geodesic to the intersection of 24° 52.75' south latitude and 113° 10.25' east longitude; thence extending due south along the meridian to the intersection of 24° 56.80' south latitude and 113° 10.25' east longitude; thence extending south-westerly along the geodesic to the intersection of 24° 58.50' south latitude and 113° 09' east longitude; thence extending south-easterly along the geodesic to the intersection 25° 11' south latitude and 113° 18' east longitude; thence extending due south along the meridian to the intersection of 25° 13' south latitude and 113° 18' east longitude; thence extending south-westerly along the geodesic to the intersection of 25° 20.50' south latitude and 113° 14.50' east longitude; thence extending southerly along the geodesic to the intersection of 25° 24.25' south latitude and 113° 16' east longitude; thence extending south-westerly along the geodesic to the intersection of 25° 31.25' south latitude and 113° 09.75' east longitude;

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This compilation was prepared taking into account amendments up to and including the *Shark Bay Prawn Fishery Management Plan Amendment 2023* published in Government Gazette No.7 on 27.1.2023

thence extending westerly along the geodesic to the intersection of 25° 29.996' south latitude and 113° 01.341' east longitude (on Dirk Hartog Island near Cape Levillain); thence generally north-westerly along the high water mark to the intersection of 25° 28.817' south latitude and 112° 58.287' east longitude (on Dirk Hartog Island near Cape Inscription); thence extending north-easterly along the geodesic to the intersection of 25° 16.333' south latitude and 113° 04.613' east longitude (on Dorre Island near Cape St Cricq); thence generally northerly along the high water mark on the eastern side of Dorre Island to the intersection of 24° 59.548' south latitude and 113° 07.091' east longitude (on Dorre Island near Cape Boullanger); thence extending northerly along the geodesic to the intersection of 24° 59.168' south latitude and 113° 07.209' east longitude (on Bernier Island near Cape Couture); thence generally northerly along the high water mark on the eastern side of Bernier Island to the commencement point.

Item 3 (Payment by Instalments)

- (a) The first instalment is 25% of the total fee and is due for payment on or before 2 March of the year for which the licence is to be granted or renewed.
- (b) The second instalment is 25% of the total fee and is due for payment on or before 1 June immediately following the period specified in paragraph (a).
- (c) The third instalment is the total fee less the instalments provided for in paragraphs (a) and (b) and is due for payment on or before 1 September immediately following the period specified in paragraph (a).

Dated this 10th day of March 1993.

MONTY HOUSE, Minister for Fisheries.

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Original Management Plan and Amendment Information:

Shark Bay Prawn Management Plan 1993 was first published in Government Gazette No.43 on 12.03.93 (pp. 1535-1539).

Amendments: Shark Bay Prawn Limited Entry Fishery Amendment Notice 1994 published in Government Gazette No.28 on 04.03.94 (pp.824-825); Shark Bay Prawn Limited Entry Fishery Amendment Notice (No.2) 1994 published in Government Gazette No.82 on 17.06.94 (p.2510); Shark Bay Prawn Limited Entry Fishery Amendment Notice 1995 published in Government Gazette No 40 on 24.03.95 (pp.1091-1092); Shark Bay Prawn Limited Entry Fishery Amendment Notice (No.2) 1995 published in Government Gazette No.79 on 20.06.95 (pp.2400-2401); Shark Bay Prawn Management Plan Amendment 1996 published in Government Gazette No. 42 on 22.03.96 (pp.1426-1427); Shark Bay Prawn Management Plan Amendment (No.2)1996 published in Government Gazette No.97 on 12.07.96 (pp.3355-3356); Shark Bay Prawn Management Plan Amendment 1997 published in Government Gazette No.39 on 14.03.97 (pp.1500-1502); Shark Bay Prawn Fishery Management Plan Amendment 2000 published in Government Gazette No. 44 on 14.03.00 (pp.1140-1143); Shark Bay Prawn Fishery Management Plan Amendment (No.2) 2000 published in Government Gazette No.78 on 03.05.00 (pp.2131); Shark Bay Prawn Fishery Management Plan Amendment 2002 published in Government Gazette No.34 on 22.02.02 (p.773); Shark Bay Prawn Fishery Management Plan Amendment 2003 published in Government Gazette No.32 on 28.02.03 (pp.704-706); Shark Bay Prawn Fishery Management Plan Amendment 2004 published in Government Gazette No.132 on 27.07.04 (pp.3094-3095); Shark Bay Prawn Managed Fishery Management Plan Amendment 2018 published in Government Gazette No.115 on 31.07.18 (pp.2716-2722); Shark Bay Prawn Managed Fishery Management Plan Amendment 2023 published in Government Gazette No.7 on 27.1.23 (pp.84-85).

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