

## EST GENERAL CONDITIONS - 01/07/18 TO 30/06/23

### AREA OF WATERS

1. This concession is granted for the area of waters described as:
  - (a) The area specified in Schedule 1A Part 2B of the *Fisheries Management Regulations 1992*; and
  - (b) The area of competence of the Western and Central Pacific Fisheries Commission (hereinafter referred to as "the Convention Area") as specified in Schedule 1 Part 3 of the *Eastern Tuna and Billfish Fishery Management Plan 2010*.

### Conditions applying to this Fishing Permit

In addition to the conditions specified by sub section 32(5) of the *Fisheries Management Act 1991*, and the condition in sub section 42(2) to comply with any log book determination, and the condition to comply with any Direction under s41A in accordance with sub section 32(7A), the following conditions are specified for the purposes of sub section 32(6) sub paragraph (a)(i):

*Note: Under sub section 32(8) these conditions may be varied, revoked or a further condition specified by written notice from AFMA.*

By s42B(2) of the Act, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 1992* providing conditions that apply to this fishing concession in particular:

Regulation 9D:	Concession holder to ensure that vessel monitoring system is operational.
Regulation 9F:	Concession holder to ensure provision for observer and equipment to be carried.
Regulation 9G:	Concession holder to ensure observer enabled to perform functions.
Regulation 9I:	Fish to be disposed of to fish receiver permit holder*
Regulation 9J - 9ZL:	Catch limits.*
Regulation 9ZO:	Prohibited ways of processing fish.
Regulation 9ZP:	Removal of shark liver.
Regulation 9ZS:	No interaction with protected organism.
Regulation 9ZT:	Recording and reporting interaction with protected organism.
Regulation 9ZU:	Reporting interaction with protected organism if protected organism injured.
Regulation 9ZV:	Reporting interaction with protected organism if protected organism killed.
Regulation 9ZX:	Nominated boat used for trip.

\* not applicable to some concessions

### AREA LIMITATION

1. The holder must not fish under this concession outside the area of waters described in this document.
2. If this concession allows access to waters adjacent to the State of New South Wales, the holder must not conduct any fishing activities within 12 nautical miles of Lord Howe Island and Balls Pyramid.

### MOVEMENT LIMITATIONS

3. While the holder is fishing in the Convention Area as detailed in 1. (b) of the area of waters, the holder must not intentionally fish within 1 nautical mile of a data buoy or intentionally interact with a data buoy.
4. Interacting with a data buoy includes, but is not limited to, encircling the buoy with fishing gear; tying up to or attracting the boat, or any fishing gear, part or portion of the boat, to a data buoy or its mooring; or cutting a data buoy anchor line.
5. If the holder unintentionally comes into contact with a data buoy while fishing they must remove any entangled fishing gear with as little damage to the data buoy as possible.
6. The holder must report any data buoys observed to be damaged to AFMA. The report must be sent by fax (+612 6225 5440) or email [monitoring@afma.gov.au](mailto:monitoring@afma.gov.au) and include:
  - (a) The date of observation;
  - (b) The buoy location; and
  - (c) Any discernable identifying information contained on the data buoy.

*Note: Data buoys are defined as floating devices, either drifting or anchored, that are deployed by governmental or recognised scientific organisations or entities for the purpose of collecting and measuring environmental data, and not for the purposes of fishing activities.*

#### **APPLICABLE BOAT**

7. The holder must not use a boat to fish on the high seas unless:
  - (a) The boat nominated to this concession is legibly marked with the international radio call sign of the boat;
  - (b) The boat nominated to this concession has the call sign shown:
    - i.
      - a) by white characters on a black background; or
      - b) by black characters on a white background; or
      - c) by black characters on a background of international safety yellow;
    - ii. the characters are in Roman capital letters, or Arabic numerals, without ornamentation; and
    - iii. where the boat is less than 20 metres long the characters:
      - a) are at least 50 centimetres high; and
      - b) consist of strokes at least 6.25 centimetres wide;
    - iv. where the boat is at least 20 metres long, the characters:
      - a) are at least 1 metre high; and
      - b) consist of strokes at least 12.5 centimetres wide
  - (c) Prior to entering and while in the Convention Area continually reports its position via satellite to the WCPFC Secretariat;
  - (d) Prior to unloading in a foreign port, the holder must seek approval from AFMA to unload any fish in that foreign port. The approval may be sought by contacting AFMA Licensing by fax on (02) 6225 5426 or by email to [licensing@afma.gov.au](mailto:licensing@afma.gov.au);
  - (e) At least 48 hours prior to entering a foreign port for the purposes of unloading, provide AFMA with the following information via email to [VMSreporting@afma.gov.au](mailto:VMSreporting@afma.gov.au) <<mailto:VMSreporting@afma.gov.au>> or fax (02) 6225 5440:
    - i. the name and international distinguishing symbol of the boat;

- ii. the proposed foreign port or ports of unloading;
  - iii. the estimated time and date the boat will arrive at that foreign port; and
  - iv. quantities of all species on board the boat.
- (f) The holder complies with the following:
- i. ensure all fishing gear remains stowed and secured when transiting any other country's EEZ;
  - ii. where the boat has entered any foreign fishing jurisdiction from the high seas for the intention of mooring in port, the boat must travel to port by the most direct route possible, unless approval for fishing within that jurisdiction has been obtained from that country in respect of the boat;
  - iii. where the boat leaves any foreign port, the boat must travel directly to the high seas by the most direct route possible unless approval for fishing within that jurisdiction has been obtained from that country in respect of the boat;
  - iv. not to partake in fishing activity within any foreign fishing jurisdiction during a trip unless approval for fishing within that jurisdiction has been obtained from that country in respect of the boat;
  - v. not to partake in any unloading activity within any foreign port unless an approval for unloading within that foreign port has been obtained from that country in respect of the boat; and
  - vi. cooperates with inspections by foreign fisheries officer authorised by other signatories to the United Nations Stocks Agreement. Failure to comply with an authorised officer's direction may result in this concession being suspended.

#### **TRANSHIPPING LIMITATIONS**

8. Unless authorised by AFMA, the holder must not carry any fish on board the nominated boat taken by another boat.
9. Unless authorised by AFMA, the holder must not tranship skipjack tuna (*Katsuwonus pelamis*) to another boat.

#### **GEAR LIMITATIONS**

10. This concession authorises the use of the following gear only:
- (a) Gear detailed in Attachment A.

11. If the holder is fishing north of the parallel of latitude 20 degrees South by purse seine method, they must not deploy or fish around a fish aggregating device;

*Note: 'Fish Aggregating Device' or 'FAD' means an object or group of objects, of any size, that has or has not been deployed, that is living or non-living, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and whale sharks floating on or near the surface of the water that fish may associate with. This does not include equipment authorised by this concession.*

12. The holder will ensure that the nominated boat shall not deploy at sea, at any one time, more than 350 drifting Fish Aggregating Devices (FADs) with activated instrumented buoys. An instrumented buoy is defined as a buoy with a clearly marked reference number allowing its identification and equipped with a satellite tracking system to monitor its position. The buoy shall be activated exclusively on board the vessel.

## SPECIES LIMITATIONS

13. This concession authorises fishing for the following species only:

- (a) Skipjack tuna (*Katsuwonus pelamis*),
- (b) Longtail tuna (*Thunnus tonggol*);
- (c) Northern pacific bluefin tuna (*Thunnus orientalis*);
- (d) Fish of the *family bramidae* (commonly known as pomfrets or rays bream);
- (e) Indo-pacific sailfish (*Istiophorus platypterus*); and
- (f) Shortbill spearfish (*Tetrapturus angustirostris*).

14. Any of the following species taken by the holder, being:

- (a) Albacore tuna (*Thunnus alalunga*);
- (b) Bigeye tuna (*Thunnus obesus*);
- (c) Broadbill swordfish (*Xiphias gladiusindo*);
- (d) Striped marlin (*Tetrapturus audax*); or
- (e) Yellowfin tuna (*Thunnus albacares*);

must be taken in accordance with the *Eastern Tuna and Billfish Fishery Management Plan 2010*.

The total combined live weight catch of Albacore tuna (*Thunnus alalunga*), Bigeye tuna (*Thunnus obesus*), Broadbill swordfish (*Xiphias gladiusindo*), Striped marlin (*Tetrapturus audax*) and Yellowfin tuna (*Thunnus albacares*) is limited to a seasonal catch of 2% of the total live weight of skipjack tuna taken and a trip limit of 50% of the skipjack live weight.

15. A maximum 35 tonne limit of Longtail tuna (*Thunnus tonggol*) per fishing year is in place across all Commonwealth fisheries. A 10 fish trip limit per operator will be imposed should the 35 tonne trigger limit be reached in any fishing year.
16. When fishing by the purse seine method, north of latitude 20 degrees South, the holder must retain on board the nominated boat and land all Bigeye Tuna (*Thunnus obesus*), Skipjack Tuna (*Katsuwonus pelamis*) and Yellowfin Tuna (*Thunnus albacares*) except those fish considered by the holder to be unfit for human consumption.
17. If Bigeye Tuna (*Thunnus obesus*), Skipjack Tuna (*Katsuwonus pelamis*) or Yellowfin Tuna (*Thunnus albacares*) are caught by the purse seine method, north of latitude 20 degrees South, the holder must not discard any fish after the point in the set when the purse seine net is fully pursed and more than one half of the net has been retrieved.

Note: if an equipment malfunction affects the process of pursing and retrieving the net in such a way that this condition cannot be complied with, the holder must make efforts to release the tuna as soon as practicable.

In these conditions “unfit for human consumption” means fish that are meshed or crushed in the purse seine net, fish that are damaged due to depredation, or fish that have died in the net where a gear failure has prevented the retrieval of the net and catch and prevented the release of the fish alive. “unfit for human consumption” does NOT include fish that are considered undesirable in terms of size, marketability or species composition, or fish which are spoiled or contaminated as a result of an act or omission of the holder or crew of the nominated boat.

18. If the holder determines there is insufficient well space to accommodate any Bigeye Tuna (*Thunnus obesus*), Skipjack Tuna (*Katsuwonus pelamis*) or Yellowfin Tuna (*Thunnus albacares*) caught during the final set of a trip north of 20 degrees South, the tuna may be discarded only if:
- (a) The holder and crew attempt to release the tuna in a live and vigorous state as soon as possible; and
  - (b) No further fishing is undertaken under the authority of this concession after any tuna are discarded.
19. The holder must not take Southern Bluefin Tuna (*Thunnus maccoyii*) except in accordance with the *Southern Bluefin Tuna Management Plan 1995*.
20. If the holder takes a Northern Pacific Bluefin Tuna or Southern Bluefin Tuna then they must:
- (a) Report to AFMA at email [northernbluefin@afma.gov.au](mailto:northernbluefin@afma.gov.au) (or to fax 02 6225 5439 if email is not possible) at least one hour prior to the boat mooring or anchoring at port the following information:
    - i. NBT/SBT report;
    - ii. the name of the boat;
    - iii. distinguishing symbol of the boat;
    - iv. port of landing;
    - v. date and time of landing;
    - vi. number and weight of Northern Pacific Bluefin Tuna on board;
    - vii. number and weight of Southern Bluefin Tuna on board;
  - (b) Determine whether the fish is a Northern Bluefin or Southern Bluefin:
    - i. if the Bluefin Tuna was taken north of 28 degrees south or was greater than 220cm fork length, it may be deemed to be a Northern Bluefin Tuna; or
    - ii. if the Bluefin Tuna was taken south of 28 degrees south, between 1 January and 1 May and was greater than 200cm, it may be deemed to be a Northern Bluefin Tuna; or
    - iii. If the Bluefin cannot be deemed a Northern Bluefin in part (b)(i) or (b)(ii) the holder must:
      - a) deem the Bluefin tuna to be a Southern Bluefin Tuna; or
      - b) supply a sample of the fish to an AFMA approved testing agency. The sample must comprise of an intact tail section of the fish (small part of the keel and caudal finlets). The kept part should contain a small section of muscle and caudal fins may be trimmed for transport purposes; or
      - c) Export the fish to the Tokyo Metropolitan Central Wholesale Market (Tsukiji market), documented as a Southern Bluefin Tuna (SBT) on the CDRs; and then provide the documentation from the Tsukiji market showing that the fish in question was sold as a Pacific Bluefin Tuna (AFMA will then deem the fish as Pacific Bluefin Tuna and reverse the CDR and SBT quota decrementation).

Should the landed tuna be deemed a Southern Bluefin Tuna (either by the holder or through identification) the holder must comply with all requirements of the *Southern Bluefin Tuna Management Plan 1995*.

21. Fishing for bait is subject to the following limitations:

(a) QUEENSLAND

If this concession allows access to waters off the State of Queensland, the holder is permitted to fish for bait in those waters.

(b) NEW SOUTH WALES

The holder is only permitted to fish for bait off New South Wales in Commonwealth waters, outside 3nm.

(c) VICTORIA AND TASMANIA

The holder while operating in waters of Tasmania and Victoria may use a lampara net, lift net and/or small scale purse seine to fish for:

- i. unlimited amounts of *Emmelichthyes*, *Trachurus*, *Sardinops*, *Clupea*, *Engaulis* and *Scomber australasicus* for use as live bait; and
- ii up to three tonnes per trip in total comprising *Emmelichthyes*, *Trachurus*, *Sardinops*, *Clupea*, *Engaulis* and *Scomber australasicus* for use as dead bait.

**BY CATCH LIMITATIONS**

22. (a) NEW SOUTH WALES

The holder must not take more than the following amounts of finfish per trip while operating in Commonwealth waters off New South Wales:

- i. 200 kilograms in total of Finfish of the Class *Osteichthyes* (bony fishes).

(b) ALL WATERS

The holder must not take any of the following species:

School shark (*Galeorhinus galeus*), Gummy shark (*Mustelus antarcticus*), Elephant fish of the Families *Callorhynchidae*, *Chimaeridae* and *Rhinochimaeridae*, Sawshark (*Pristiophorus cirratus* and *Pristiophorus nudipinnis*), Blue Eye Trevalla (*Hyperoglyphe Antarctica* and *Schedophilus labyrinthica*), Blue grenadier (*Macruronus novaezelandiae*), Blue warehou (*Serirolella brama*), Flathead (*Platycephalus* sp., *eoplatycephalus* sp.), Gemfish (*Rexea solandri*), Jackass morwong (*Nemadactylus macropterus*), John dory (*Zeus faber*), Ling (*Genypterus blacodes*), Mirror dory (*Zenopsis nebulosus*), Ocean perch (*Helicolenus* sp.), Orange roughy (*Hoplostethus atlanticus*), Redfish (*Centroberyx affinis*), Royal red prawn (*Haliporoides sibogae*), School whiting (*Sillago findersi*), Silver trevally (*Pseudocaranx dentex*), Spotted warehou (*Serirolella punctata*), Blue marlin (*Makaira mazara*), Black marlin (*Makaira indica*), Black cod (*Epinephelus daemeli*) and Deepwater sharks (*Centroscymnus coelolepis*, *Centroscymnus crepidater*, *Centroscymnus owstoni*, *Centroscymnus plunketi*, *Centroscyllium kamoharai*, *Dalatias licha*, *Dalatias calcea*, *Dalatias quadrispinosa*, *Etmopterus bigelwi*, *Etmopterus dianthus*, *Etmopterus dislineatus*, *Etmopterus evansi*, *Etmopterus fusus*, *Etmopterus granulosus*, *Etmopterus lucifer*, *Etmopterus molleri* and *Etmopterus pusillus*).

**CARRYING OF SHARK OBLIGATIONS**

23. The holder must not carry or possess any shark (*Class Chondrichthyes*) dorsal, pectoral, caudal, pelvic or anal fins on board the boat nominated to this concession that are not attached to the shark's carcass.

#### **OTHER OBLIGATIONS**

24. The holder must comply with the measures that would otherwise apply to foreign fishing boats as prescribed in Schedule 3 (prescribed measures Western and Central Pacific Fisheries Commission) of the *Fisheries Management (International Agreements) Regulations 2009*. Any contravention of a measure contained within the *Fisheries Management (International Agreements) Regulations 2009* will be a contravention of this condition.

25. If a boat is nominated to this concession, at all times when the boat is being used under this concession, the holder must have provided to AFMA a current emergency contact facility for the nominated boat.

26. An emergency contact facility must enable AFMA to contact the boat immediately and directly at any time when the boat is at sea, including in the event of an emergency.

27. AFMA must be notified immediately of any change in contact details, by fax sent to (02) 6225 5426 or by email to [licensing@afma.gov.au](mailto:licensing@afma.gov.au) <<mailto:licensing@afma.gov.au>>; and the boat must not depart on a fishing trip unless AFMA has been so notified of the change in contact details.

*Note: The emergency contact facility may take the form of a satellite phone number, or skipper or crew member's mobile phone number - any number that may be used by AFMA to contact the boat while it is at sea at any time, including in the event of an emergency.*

#### **AGENT OBLIGATIONS**

28. The holder accepts concurrent liability for all conduct by its servants or agents infringing the *Fisheries Management Act 1991* (or the Regulations, Management Plans or concession conditions made by virtue of that Act) who may be engaged by the holder to conduct on the holder's behalf activity under this concession.

Liability for the conduct of the holder's servants or agents arises, even if the conduct may be, or actually is, beyond the scope of the servant or agent's actual or apparent authority where it is a breach that occurs during the conduct of activity authorised by this concession.

The holder may avoid concurrent liability for conduct whilst conducting activity under this concession if, but only if, the holder can establish that the infringing conduct could not possibly have been prevented by any action or precaution that the holder might have reasonably taken.

The giving of an indemnity by the servant or agent to the holder for any penalties incurred by the holder, for infringing conduct by the servant or agent is not, of itself, a reasonable precaution to prevent infringing conduct.

*The giving of an indemnity by the holder to the servant or agent would be prohibited and unenforceable on public policy grounds as encouraging the offending conduct.*

#### **TEMPORARY ORDER OBLIGATIONS**

29. The holder must comply with any Temporary Order made under sub section 43(2) of the *Fisheries Management Act 1991* and to the extent that any provision herein is inconsistent with such Temporary Order sub section 43(9) provides that the provision herein is overridden by the

Temporary Order until the Temporary Order ceases to have effect.

#### **NAVIGATING IN CLOSED ZONES**

30. AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the *Fisheries Management Act 1991*, if it reasonably appears by VMS transmission from the nominated boat, that there is a failure by that boat while in a closed zone for the purposes of regulation 37B of the *Fisheries Management Regulations 1992*, to meet the exempting provisions of sub regulations 37C(2), or (3) or sub regulation 37D(2) or (3). Such suspension will then continue until the concession holder provides a full written explanation, to the satisfaction of the delegate responsible for issuing that suspension, of the lawful reason for the boat being in that closed zone at that time, or until the expiration of the suspension under sub section 38(2); whichever is the earlier.

#### **OBSERVER/MONITORING OBLIGATIONS**

31. When directed by AFMA the holder must:

- a) give the AFMA Observer Section at least 72 hours notice of an intention to depart on a fishing trip, by telephone (02 6225 5506, or 0427 016 859) or by email: [observers@afma.gov.au](mailto:observers@afma.gov.au) <<mailto:observers@afma.gov.au>>; and
- b) ensure that the boat does not leave port until:
  - i. AFMA has notified the holder, or a person acting on behalf of the holder, whether it directs that an observer is to be carried on the boat; and
  - ii. if the boat is equipped with electronic monitoring equipment, an electronic monitoring function test has been completed, AFMA has been notified of the result of the test, and AFMA has notified the holder, or a person acting on behalf of the holder, that it is satisfied that the equipment is working correctly.

32. The boat must carry an observer if the holder is planning to fish within the EEZ and north of latitude 20 degrees South.

*Note 1: These conditions are in addition to the conditions concerning the taking of observers that are prescribed in the Fisheries Management Regulations 1992 (the Regulations). Those conditions are in Schedule 1, Division 3, regulations 9E to 9G*

*Note 2: AFMA may direct under the Regulations that an observer be carried, even if electronic monitoring equipment is installed and is to be operated.*

#### **INTERACTIONS WITH WILDLIFE OBLIGATIONS**

33. When fishing by the purse seine method in the Convention Area as detailed in 1 (b) of the area of waters and a Whale Shark (*Rhincodon typus*) or cetacean is sighted by the holder prior to the setting of a purse seine net, the holder must not intentionally set a purse seine net around the Whale Shark or cetacean.
34. When fishing by the purse seine method in the Convention Area as detailed in 1 (b) of the area of waters and a Whale Shark (*Rhincodon typus*) or cetacean is unintentionally encircled in a



purse seine net, the holder must:

- (a) Take all reasonable steps to ensure the safe release of the Whale Shark and/or cetacean(s); and
- (b) Report the interaction to AFMA via the Wildlife and Other Protected Species Form attached to the Purse Seine Daily Fishing Logbook. The holder must ensure the following additional information is included in the comments section of the form:
  - a. A short description of the interaction including details of how and why the interaction occurred; and
  - b. The steps taken to ensure the safe release of the Whale Shark and/or cetacean(s).

## **MANDATORY AFMA SUPPLIED VMS**

### **35. Direction to Fit**

1. When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must:
  - a. make available, within 14 days of the date of the written direction, the boat nominated to this concession for the purposes of installation of an AFMA Vessel Monitoring System unit (AFMA VMS unit) by an AFMA approved technician, and
  - b. Provide all reasonable assistance to the AFMA approved technician including (but not limited to);
    - i. the provision of an un-interrupted connection to the boat's main power source, and
    - ii. an appropriate position for the mounting of the AFMA VMS unit.
2. When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must:
  - a. make available, within 14 days of the date of the direction, the boat nominated to this concession for the purposes of removal of the AFMA VMS unit by an AFMA approved technician, and
  - b. Provide all reasonable assistance to the AFMA approved technician.

### **Concession holder must not interfere with AFMA VMS Unit**

3. The concession holder (or a person acting on the holder's behalf) must not interfere, or attempt to interfere, with the operation of the AFMA VMS Unit.

### **Definitions:**

**AFMA VMS Unit** *Means a Vessel Monitoring System (VMS) unit wholly owned by AFMA, marked with AFMA identifications and supplied by AFMA and fitted by an AFMA approved technician.*

**Interfere** *For the purposes of these conditions 'interfere' includes, but is not limited to;*

- *Physical obstruction or removal of the AFMA VMS unit, or*
- *Deliberately disconnecting or otherwise interfering with the power supply to the AFMA VMS unit, or*
- *Deliberate physical interference with the casing or any external or internal components of the AFMA VMS unit.*

### **Notes**

- Must Make boat available** - Where the boat is not made available in accordance condition 35 1 (a) or 35 2(a), AFMA may suspend this concession pursuant to section 38(1)(c) of the Fisheries Management Act 1991.
- Must maintain VMS Unit** - Regardless of AFMA's decision to fit an AFMA VMS unit, the holder must continue to maintain a VMS unit in accordance with regulation 9D of the Fisheries Management Regulations 1992.
- Remains the property of AFMA** - At all times the AFMA VMS unit remains the sole property of AFMA. The holder is liable for any costs incurred as a result of loss or damage to the unit.

## 36. HANDLING AND TREATMENT OF BYCATCH

1) The concession holder (or a person acting on the holder's behalf) must not mistreat bycatch.

### **Definitions:**

**Mistreat** means taking, or failing to take, any reasonable action or actions, which results, or is likely to result, in the;

- i. death of, or
- ii. injury to, or
- iii. causing of physiological stress to

any bycatch.

**Bycatch** means any species that physically interact with fishing vessels and/or fishing gear (including auxiliary equipment) and which are not usually kept by commercial fishers. (**Bycatch** species may include fish, crustaceans, sharks, molluscs, marine mammals, reptiles and birds. **Bycatch** includes listed protected species under the *Environment Protection and Biodiversity Conservation Act 1999*.)

**Notes:** For the purposes of this condition 'mistreat' does not include the taking, or failing to take, action where it is reasonably necessary to take, or not take, the action;

- to ensure the safety of the boat and or its crew, or
- to comply with the requirements of any AFMA approved bycatch management plan(s) (these may include Seabird Management Plans, Vessel Management Plans etc.).