

ETBF Gillnet permit GA and MJ Stevenson AOW and GEN conditions - 2023

AREA OF WATERS

1. This concession authorises fishing in the following areas of water:
 - (a) The area specified in Schedule 1 Part 1 of the *Eastern Tuna and Billfish Fishery Management Plan 2010* north of the latitude 28° 10' South only, excluding the area within 12 nautical miles of Lord Howe Island and Balls Pyramid.

GENERAL CONDITIONS

2. The concession holder is:
 - (a) Subject to all the terms, provisions and conditions of this concession, and the:
 - i. *plan of management under which this concession is granted (if any)*;
 - ii. *Fisheries Management Act 1991 (the Act)*;
 - iii. *Fisheries Management Regulations 1992*.

By s42B(1) of the Act, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 2019* providing conditions that apply to this fishing concession in particular:

Regulation 33:	Nominated boat must be used on trip.
Regulation 37:	Concession holder to ensure that vessel monitoring system is fitted and operating.
Regulation 39:	Requirement to carry observer
Regulation 40:	Concession holder to ensure provision for observer and equipment to be carried.
Regulation 41:	Concession holder to ensure observer enabled to perform functions.
Regulation 43:	Fish to be disposed of to fish receiver permit holder*
Regulation 44-65:	Catch limits.*
Regulation 67:	Prohibited ways of processing fish.
Regulation 68:	Removal of shark liver.
Regulation 70:	No interaction with protected organism.
Regulation 71:	Reporting interaction with protected organism.
Regulation 72:	Requirements if protected organism is injured by interaction.
Regulation 73:	Requirements if protected organism is killed by interaction.
Regulation 86:	Navigating in area that is a closed zone

* not applicable to some concessions

AUTHORISED GEAR

3. This concession authorises the use of gillnets subject to the restrictions specified below:
 - (a) Gillnets are only permitted for use under this fishing permit to take tuna as an incidental catch to fishing operations conducted under a QLD state license which allows the use of gillnets.
 - (b) The length of the gillnet must not exceed 600 metres.

TAKING OR CARRYING TUNA AND TUNA LIKE SPECIES

4. This fishing permit only allows fishing for the following species:

Yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*), longtail tuna (*Thunnus tonggol*), albacore tuna (*Thunnus alalunga*) skipjack tuna (*Katsuwonus pelamis*), northern pacific bluefin tuna (*Thunnus orientalis*), striped marlin (*Tetrapturus audax*), broadbill swordfish (*Xiphias gladius*), fish of the family *bramidae* (commonly known as pomfrets or rays bream), indo-pacific sailfish (*Istiophorus platypterus*) and shortbill spearfish (*Tetrapturus angustirostris*).

QUOTA AND CATCH BALANCING PROCEDURES

- 5.
- (a) The holder must not be in an over quota position for any quota species.
 - (b) If the holder is over quota for any quota species or has not provided to AFMA a written explanation detailing any exceptional circumstances within a 28 day period which satisfies AFMA that AFMA should not do so, AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the Fisheries Management Act 1991.
 - (c) The holder is not considered to be over quota if the holder:
 - i. lands an amount of quota species in excess of the available uncaught amount recorded for that species in the holder's name on the Register of Statutory Fishing Rights kept by AFMA pursuant to section 44 of the Fisheries Management Act 1991; and
 - ii. acquires a further amount of quota species equal to or greater than the total quantity (by weight) landed in excess of that total amount recorded within 28 days of landing.
 - (d) Any dealing in a quota Statutory Fishing Right by the holder of a boat Statutory Fishing Right or Fishing Permit for the purpose of complying with this condition must be lodged with AFMA duly executed and in the form approved by AFMA, on or before the 28th day from which the excess quota species was landed. For the purpose of determining if the holder is over quota under this condition, any acquisition of a quota species may only be deemed to have been acquired up to 28 days prior to the date of registration of that acquisition of that quota species.
 - (e) If this concession is suspended, unless the holder has acquired and AFMA has then recorded (but may not deem) an amount of uncaught quota for each quota species in the fishery, this concession may, under this condition, again be suspended upon expiration of the earlier suspension.
 - (f) It is the obligation of the holder to record and determine when any quota species amount exceeds the total amount recorded by AFMA.

In these conditions:

Acquire means receiving statutory fishing rights by registering a dealing by which an amount of statutory fishing rights are permanently or seasonally transferred to the holder; and **acquisition**

has a comparable meaning.

Quota species has the same meaning as quota species in the applicable management plan for which this concession has been granted and established under the *Fisheries Management Act 1991*.

Landed means the date any quota species was disposed of to an AFMA licensed fish receiver permit holder as recorded on the relevant catch disposal record; and landing has a comparable meaning.

AT SEA PROCESSING AND LANDING REQUIREMENTS

6.
 - (a) This concession authorises the processing of catch at sea to produce whole, gilled, gutted and headed forms.
 - (b) The concession holder must not sell or otherwise dispose of fish of the Class *Osteichthyes* (bony fishes), in a form other than as a whole, gilled, gutted or headed fish and/or a combination of these forms.
 - (c) The concession holder must comply with any additional identification and labelling requirements for catch processed under this concession as directed by AFMA.
 - (d) The concession holder must not remove the caudal keel of any tuna or the caudal keel or any dorsal, pectoral or anal fin of any billfish excluding broadbill swordfish (*Xiphias gladius*) taken and landed under this concession.

NORTHERN BLUEFIN TUNA

7. If the concession holder takes a Northern Bluefin Tuna they must:
 - (a) Report to AFMA at email 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 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 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 can not be deemed a Northern Bluefin in part c(i) or c(ii) the concession holder must:
 - a) Obtain genetic testing showing that the fish in question is a Northern Bluefin (AFMA will then deem the fish a Northern Bluefin); or
 - b) For fish exported to the Tokyo Metropolitan Central Wholesale Market (Tsukiji market), document the fish as a Bluefin Tuna on the relevant Catch Disposal Record (CDR) and provide the documentation from the Tokyo

Metropolitan Central Wholesale Market (Tsukiji market) showing the fish was sold as a Northern Bluefin Tuna (AFMA will then deem the fish as a Northern Bluefin).

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*.

SOUTHERN BLUEFIN TUNA

8. This concession does not allow fishing for Southern Bluefin Tuna (*Thunnus maccoyii*). Any take of Southern Bluefin Tuna is to be in accordance with the *Southern Bluefin Tuna Management Plan 1995*.

FISHING FOR LONGTAIL TUNA

9. Once AFMA publishes a notice stating that 35 tonnes of longtail tuna (*Thunnus tonggol*) has been taken in the Western Tuna and Billfish Fishery (WTBF) and/or the Eastern Tuna and Billfish Fishery (ETBF), the concession holder must not take more than 10 longtail tuna on any subsequent trip until the notice is revoked by AFMA.

FISH TAKEN WITH ANOTHER BOAT

10. Unless the boat nominated to this concession is also nominated to an Eastern Tuna and Billfish Fishery carrier boat permit, fish taken with the use of another boat must not be carried on board.

TRANSHIPPING FISH

11. The concession holder may not tranship fish, unless the boat to which the product is being transhipped is nominated to an Eastern Tuna and Billfish Fishery carrier boat permit.

LANDING REQUIREMENTS FOR SHARKS

12. The concession does not allow the landing of sharks.

BOAT NOMINATIONS

13. The use of the boat nominated to this concession is authorised only if the boat is not nominated as the boat to be used by another person under a concession granted under the *Fisheries Management Act 1991*.

REPORTING REQUIREMENTS

14.
 - (a) The concession holder must ensure that relevant information about all fish taken in the area of the Eastern Tuna and Billfish Fishery is accurately and fully recorded and submitted in each of the following logbooks in accordance with the General Information and instructions for completion of each logbook;
 - i. the logbook titled Gillnet Fishing Daily Fishing Log - NT01A.
 - (b) The concession holder must ensure that all fish taken in the area of the Eastern Tuna and Billfish Fishery are recorded on the Commonwealth Pelagic Fisheries Catch Disposal Record PT02B in accord with the information and instructions in the catch disposal record.

CONCURRENT CONDITIONS

15. This concession must only be used in conjunction with another concession held by the same holder namely an Eastern Tuna and Billfish Fishery Quota Statutory Fishing Right (“that other concession”) such that:

- (a) The conditions of that other concession apply (to the extent those conditions are not inconsistent and are capable of doing so) as conditions of this concession.
- (b) A breach, suspension or cancellation of that other concession is a breach, suspension or cancellation of this concession.
- (c) The conditions of this concession apply (to the extent these conditions are not inconsistent and are capable of doing so) as conditions of that other concession while it is being used in conjunction with this concession.
- (d) A breach, suspension or cancellation of this concession is a breach, suspension or cancellation of that other concession.

NAVIGATING IN CLOSED ZONES

16. 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 85B of the *Fisheries Management Regulations 1992*, to meet the exempting provisions of sub regulations 86(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.

MANDATORY AFMA SUPPLIED VMS

17. Direction to Fit

- (a) When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must;
 - i. 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
 - ii. Provide all reasonable assistance to the AFMA approved technician including (but not limited to);
 - a. the provision of an un-interrupted connection to the boat's main power source, and
 - b. an appropriate position for the mounting of the AFMA VMS unit.
- (b) When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must;
 - i. 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
 - ii. Provide all reasonable assistance to the AFMA approved technician.

Concession holder must not interfere with AFMA VMS Unit

- (c) 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 28, 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 37 of the Fisheries Management Regulations 2019.*

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.*

AGENT OBLIGATIONS

18. 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.
19. 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.
20. 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.
21. 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.
22. The holder must ensure the master of the boat fishing under the authority of this concession is

nominated as an authorised agent for the holder before any fishing operation may take place.

23. The holder must ensure the authorised agent signing the determined *Daily Fishing logbook page was the master of the boat (skipper) at the time the recorded fishing operation took place.
24. The holder may sign the determined *Daily Fishing logbook page if they were the master of the boat (skipper) when the recorded fishing operation took place.
25. If more than one master of the boat is on board the boat during the fishing trip, each master must complete and sign a separate determined *Daily Fishing logbook page for each of the fishing operations for which they had control over.

**These instructions are for all determined Daily Fishing Logs including e-Logs.*

HANDLING AND TREATMENT OF BYCATCH

26. 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;*

- a) *death of, or*
- b) *injury to, or*
- c) *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;

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