

## **SESSF - SACW Linked Nets and or Hooks 2019 - amended 02/01/20**

### **Conditions applying to this Fishing Permit**

In addition to the conditions specified by sub section 32(5) of the *Fisheries Management Act 1991* (the Act), 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.*

Specifically, section 32(5)(a) of the Act provides that a Fishing Permit is granted subject to conditions that the holder must comply with any obligations imposed by the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* in particular:

Section 45:	<i>Purpose of Part 7</i>
Section 46:	<i>General obligations</i>
Section 48:	<i>Obligations relating to carrying of fish</i>
Section 49:	<i>Obligations relating to unloading of fish of a quota species taken under State or Territory permit</i>
Section 50:	<i>Obligations relating to unloading of fish of a quota species before fishing under State or Territory permit</i>
Section 51:	<i>Obligations relating to areas in which holder can fish</i>
Section 52:	<i>Obligations relating to inspection of nominated boat</i>
Section 53:	<i>Obligations relating to disposal of fish landed from the fishery.</i>

By section 42B (2) 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.
Regulation 41:	Concession holder to ensure observer is able to perform functions.
Regulation 44 - 65:	Catch limits.*
Regulation 66 - 68:	Fish processing during a trip.
Regulation 70:	No interaction with protected organism.
Regulation 71:	Reporting interaction with protected organism.
Regulation 72:	Requirements if protected organisms is injured by interaction.
Regulation 73:	Requirements if protected organisms killed by interaction.

\* not applicable to some concessions

### **Definitions**

Where mentioned in these conditions:

'Landed' means the act of having brought fish to land or shore.

### Species limitations

1. Any take of the following Eastern Tuna and Billfish Fishery quota species is to be taken in accordance with the *Eastern Tuna and Billfish Fishery Management Plan 2010*:
  - a) Albacore tuna (*Thunnus alalunga*)
  - b) Bigeye tuna (*Thunnus obesus*)
  - c) Broadbill swordfish (*Xiphias gladius*)
  - d) Striped marlin (*Tetrapturus audax*)
  - e) Yellowfin tuna (*Thunnus albacares*).
2. The holder must not take any species of rock lobster (family *Palinuridae*) or abalone (family *Haliotidae*) unless taken under the authority of a State concession.
3. The holder must not retain snapper (*Chrysophrys auratus*) taken from South Australian waters, unless it is taken in waters of the South East between 1 February and 31 October in any year.

**South Australian waters** means the area described in clause 2 of Schedule 4 of the *Fisheries Management Regulations 2019*.

For the purpose of these conditions, the **waters of the South East** means the area of South Australian waters:

- a) commencing at a point on mean low water closest to 35°38.564' South, 138°31.346' East (Newland Head) then running progressively
- b) south westerly along the geodesic to a location on the mean low water closest to 35°50.486' South, 138°08.094' East (Cape Willoughby)
- c) then generally westerly along the southern coast of Kangaroo Island following the line of mean low water to the location closest to 35°53.188' South, 136°32.0647' East (Vennachar Point)
- d) then south along meridian of longitude 136°32.600' East to the outer limit of the Australian Fishing Zone
- e) then generally south-easterly along the outer limit of the Australian Fishing Zone to the intersection with meridian of longitude 140°57.962' East
- f) then north on that the meridian of longitude 140°57.962' East to its intersection with a point on mean low water closest to 38°03.386' South, 140°57.962' East
- g) then generally westerly following the line of mean low water to the point of commencement.

### Shark Obligations

4. Retained and/or landed school shark (*Galeorhinus galeus*) and gummy shark (*Mustelus antarcticus*) must exceed 450 millimetres when measured in a straight line from the middle of the posterior edge of the aftermost gill-slit to the ventral insertion of the caudal fin.

5. The holder must not take, or engage in fishing for, the species school shark (*Galeorhinus galeus*) unless:
  - a) the holder holds five times more gummy shark (*Mustelus antarcticus*) quota (caught and uncaught) than the amount of school shark that the holder has taken; or
  - b) at the end of the:
    - i. first period, the holder has taken less than 250 kilograms of school shark (trunked weight) in that period
    - ii. second period, the holder has taken less than 500 kilograms of school shark (trunked weight) in that period; or
    - iii. third period, the holder has taken less than 750 kilograms of school shark (trunked weight) in that period.
    - iv. fourth period, the holder has taken less than 1000 kilograms of school shark (trunked weight) in that period.
6. In these conditions:
  - a) 'first period' means the three month period from 1 May through to the last Friday in July of each fishing year
  - b) 'second period' means the six month period from 1 May through to the last Friday in October of each fishing year
  - c) 'third period' means the nine month period from 1 May through to the last Friday in January of each fishing year; and
  - d) 'fourth period' means the 12 month period from 1 May through to the end of the fishing year.
7. For the purpose of determining compliance with these conditions, the holding of caught and uncaught quota of gummy shark and amount of school shark taken must be calculated on each quota and catch balancing date, being:
  - a) 5pm Eastern Standard Time 12 August of each fishing year, for the first period; and
  - b) 5pm Eastern Standard Time on 11 November of each fishing year, for the second period; and
  - c) 5pm Eastern Standard Time on 14 February of each fishing year for the third period; and
  - d) 5pm Eastern Standard Time on 28 May of the next fishing year for the fourth period.

If any of these quota and catch balancing dates fall on a weekend or a public holiday, the balancing date moves to the next business day.

*Note: For example, if, at the end of the first period the person has taken 600 kilograms of school shark, the holder must hold at least 3 tonnes of gummy shark quota (600 kilograms x*

5) on the 'quota and catch balancing date'.

8. If any school shark (*Galeorhinus galeus*) are taken alive, they must be returned to the water alive.
9. The holder must not retain Harrison's dogfish (*Centrophorus harrissoni*), endeavour dogfish (*C. moluccensis*), southern dogfish (*C. zeehaani*) and greeneye spurdog (*Squalus chloroculus*). If any of these species are taken alive, they must be returned to the water carefully and quickly.
10. 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.

### Handling and treatment of bycatch

11. 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.).

### Concurrent conditions

12. This concession must only be used in conjunction with another concession held by the same holder namely a fishing concession issued by the state of South Australia that authorises the use of the same fishing equipment allowed under this concession and a Southern and Eastern Scalefish and Shark Fishery (SESSF) Boat Statutory Fishing Right and Quota Statutory Fishing Right that allows the take of quota species ("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.

### **Quota balancing obligations**

13.

- a) The holder must not be over quota for any quota species.
- b) The holder is not considered to be over quota for a species if, within 28 days of landing an amount (by weight) in excess of their uncaught quota recorded in the Register, the holder acquires a further amount of quota for that species which is equal to or greater than the excess.
- c) If the holder is over quota for any quota species AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the *Fisheries Management Act 1991*. In deciding whether to suspend or lift the suspension of this concession AFMA must take account of any written explanation from the holder detailing any exceptional circumstances as to why the holder was over quota.
- 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 quota for a 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 in the Register (but may not deem) an amount of uncaught quota for which the holder is over quota, this concession may, under this condition, again be suspended upon expiration of the earlier suspension.

In this condition:

'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*.

'Over quota' means when the holder 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.

'Register' means the Register of Statutory Fishing Rights kept by AFMA pursuant to section 44 of the *Fisheries Management Act 1991*.

### **Observer/Monitoring Obligations**

14. When directed by AFMA to carry an observer the holder must 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).

### **Observer/Monitoring Obligations in closure areas**

15. In these conditions the 'Australian Sea Lion Management Zone' means that part of the Australian Fishing Zone and the South Australian Coastal Waters Sector that is east of the parallel of longitude 129° east and west of the parallel of longitude 139° east.
16. If the boat nominated to this concession is equipped for fishing using gillnet methods, the holder must not depart on a fishing trip to fish in the Australian Sea Lion Management Zone, whether the fishing method intended to be used is hook methods or gillnet methods, unless:
- a) an AFMA nominated observer is carried on the boat nominated to the concession
  - b) an AFMA approved electronic monitoring system is installed and the operations of that equipment are in accordance with *E-Monitoring (Southern and Eastern Scalefish and Shark Fishery) Direction 2015*; or
  - c) AFMA authorises otherwise in writing.
  - d) If required by AFMA to carry an observer the holder must 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).

*Note: This condition does not authorise fishing by a method in an area prohibited under the Southern and Eastern Scalefish and Shark Fishery and Small Pelagic Fishery (Closures) Direction 2016.*

### **Dolphin Mitigation**

Dolphin Mitigation Plan:

17. The holder must not use the nominated boat to fish using gillnets unless the boat has an AFMA-approved Dolphin Mitigation Plan.
18. The holder must have their Dolphin Mitigation Plan re-approved by AFMA for the nominated boat before commencing fishing with gillnets if there are any changes made by the holder to any measures or requirements contained in their AFMA-approved Dolphin Mitigation Plan.

19. For each fishing trip the holder must:

- a) carry a copy of the AFMA-approved Dolphin Mitigation Plan on the nominated boat;
- b) comply with the measures and requirements contained in the AFMA-approved Dolphin Mitigation Plan;
- c) ensure each member of the crew on board the nominated boat is briefed on the content, intent and purpose of the AFMA-approved Dolphin Mitigation Plan; and
- d) ensure each member of the crew on board the nominated boat complies with the measures and requirements of the AFMA-approved Dolphin Mitigation Plan.

Dolphin interaction obligations:

20. For any dolphin interaction using the nominated boat, the holder must

- a) complete a Dolphin Interaction Evaluation Report for each dolphin interaction and submit it to AFMA via email to [GHAT@afma.gov.au](mailto:GHAT@afma.gov.au) <<mailto:GHAT@afma.gov.au>> within 48 hours of landing;
- b) complete a Listed Marine and Threatened Species form as part of the daily fishing logbook; and
- c) return the e-monitoring data drive to AFMA within 48 hours of landing.

21. If, using the nominated boat, the holder has three or more dolphin interactions across three separate gillnet sets in a single Review Period, the holder must immediately cease fishing with gillnets and return to port until authorised in writing by AFMA to recommence fishing with gillnets.

22. If, using the nominated boat, the holder has six or more dolphin interactions in a single Review Period, the holder must immediately cease fishing with gillnets and return to port until authorised in writing by AFMA to recommence fishing with gillnets.

For any subsequent dolphin interaction within the same Review Period, the holder must immediately cease fishing with gillnets and return to port until authorised in writing by AFMA to recommence fishing with gillnets.

23. If, using the nominated boat, the holder:

- a) has six or more dolphin interactions in a single Review Period; and
- b) exceeded the Maximum Interaction Rate in either of the previous two Review Periods,
  - the holder must immediately cease fishing with gillnets and must not recommence fishing with gillnets for six months from the date of the last dolphin interaction.
  - The holder must review the Dolphin Mitigation Plan for the boat and obtain approval from AFMA in writing of the revised Dolphin Mitigation Plan before recommencing fishing with gillnets.

SA Dolphin Zone

24. If the holder has been notified by AFMA in writing that, using the nominated boat, the holder has had three or more dolphin interaction in the SA Dolphin Zone and exceeded the Maximum Interaction Rate at the end of the Review Period, the holder must not fish using gillnets in the SA Dolphin Zone in the next review period.

#### Second consecutive Review Period

25. If the holder has been notified by AFMA in writing that, using the nominated boat, the holder has exceeded the Maximum Interaction Rate for a second consecutive Review Period, the holder must not use the nominated boat to fish using gillnets unless they have their Dolphin Mitigation Plan re-approved by AFMA.

#### Third consecutive Review Period

26. If the holder has been notified by AFMA in writing that, using the nominated boat, the holder has exceeded the Maximum Interaction Rate at the end of a Review Period, and had exceeded the Maximum Interaction Rate in the previous two Review Periods:

- a) the holder cease fishing immediately and must not fish using gillnets in the next Review Period;
- b) the holder must review the Dolphin Mitigation Plan for the boat and obtain approval from AFMA in writing of the revised Dolphin Mitigation Plan before recommencing fishing with gillnets.

#### Review period following exclusion

27. If the holder has been notified by AFMA in writing that, using the nominated boat, the holder has exceeded the Maximum Interaction Rate at the end of the Review Period immediately following a period where the holder was excluded from fishing with gillnets, the holder must:

- a) cease fishing immediately and must not fish using gillnets in the next two Review Periods;
- b) review the Dolphin Mitigation Plan for the boat and obtain approval from AFMA in writing of the revised Dolphin Mitigation Plan before recommencing fishing with gillnets.

### **Definitions**

***AFMA-approved Dolphin Mitigation Plan*** means a Dolphin Mitigation Plan for the nominated boat subject to a current approval in writing from AFMA.

***Dolphin Interaction Evaluation Report*** means a document, as per Appendix B of the Gillnet Dolphin Mitigation Strategy, which describes the details of a dolphin interaction event.

***Dolphin Mitigation Plan*** means a document, as per Appendix C of the Gillnet Dolphin Mitigation Strategy that contains a statement about actions to minimise interactions being taken in the following areas:

- fishing practices (e.g. how you are setting relative to tide)
- gear setup (e.g. any changes or modifications to gear from previous seasons)

- mitigation devices (e.g. any mitigation or modifications)

**Gear set** means the act of deploying gillnet fishing equipment.

**Interaction** means any physical contact between fishing gear or a vessel and a dolphin.

**Maximum Interaction Rate** means one dolphin interaction per 210 000 metres of gillnet set.

**Review Period** means either of the first six months (1 May - 31 October) or second six months (1 November to 30 April) of a Fishing Season in which the operator has fished using gillnets.

**South Australian (SA) Dolphin Zone** means the part of the Australian Fishing Zone and coastal waters of the State of South Australia bounded by longitude of 136° 33' 55"E and the longitude of 140° 58'E.

### **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.
29. 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.
30. 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.
31. 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.
32. 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.
  - 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.
  - 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.
  - 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.

### **Direction Obligations**

33. The holder must comply with any Direction that fishing is not to be engaged in in the fishery, or a particular part of the fishery or during a particular period or periods made under sub section 41A of the *Fisheries Management Act 1991*.

### **Temporary Orders Obligations**

34. 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**

35. 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 85 of the *Fisheries Management Regulations 2019*, to meet the exempting provisions of 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 110(2); whichever is the earlier.

### **Area Limitation**

36. The holder must not fish under this concession outside the area of waters described in this document.

### **Gear Limitations**

37. This concession authorises the use of the following gear only:

a) Gear detailed in Attachment A.

38. If this concession allows fishing by gillnets, the holder must measure a mesh in a net in the following way:

a) Before a measurement is taken, the part of the net to be measured must be soaked in water for at least 5 minutes;

b) Immediately after the net has been soaked the part of the net to be measured must be suspended vertically. The distance between the inside edge of the knot and the inside edge of the knot in the diagonally opposite corner of the mesh immediately above the first knot must be measured;

c) The measurement must be rounded to the nearest 1.6 millimetres; and

d) The average of the 10 measurements must be taken as the size of the mesh in the net.

39. A mesh in a gillnet must be:

a) greater than or equal to 150 millimetres in width; and

b) less than or equal to 165 millimetres in width.

40. The holder must not use automatic baiting equipment while fishing under the authority of this concession.

41. While fishing under the authority of this concession, all gear on board the nominated boat above the amount specified in these conditions (with the exception of State authorised rock lobster pots and giant crab traps) is stowed and secured at all times.

### **Removal of biological material and offal**

42. The holder must remove all biological material from a gillnet before setting the net.

43. The holder must not discard processing waste, including offal, from the nominated boat while a gillnet is being set.

### **Move on Provisions and Reporting Obligations**

44. Any pinniped captured in the 'Australian Sea Lion Management Zone' will be treated as an Australian sea lion for the purpose of the trigger limits unless there is evidence to the contrary. This evidence may include photographs.

45. If a pinniped is caught in the 'Australian Sea Lion Management Zone' the holder must cease fishing immediately and report the interaction to the GHAT manager on 1300 723 621 or the AFMA Duty Officer on 0419 205 329 and provide email notification to [GHAT@afma.gov.au](mailto:GHAT@afma.gov.au) [GHAT@afma.gov.au](mailto:GHAT@afma.gov.au).

### **Other Obligations**

46. The holder must provide AFMA with a current emergency contact facility at all times when a nominated boat is being used under this concession.

47. 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.

48. AFMA must be notified immediately of any change in contact details, by fax sent to (02) 6225 5440 or by email to [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.

### **Mandatory AFMA supplied VMS**

#### Direction to Fit

49. 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.

50. 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

51. 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 49 (a) or 50 (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 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.*