

SESSF - ECDW Trawl Permit - Linked - 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 (1) of the Act, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 2019* (the Regulations) 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 43:	Fish to be disposed of to a fish receiver permit holder*
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.

'Electronic monitoring' means electronic monitoring equipment and peripheral equipment approved by AFMA, that can:

- i. record, store and transmit details of a vessel's position and activity; and
- ii. record, store and transmit details of the e-monitoring system's status; and
- iii. record (including visually) and store all fishing events.

Finfish obligations

1. Under the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* the holder must not take any tuna or tuna-like species as specified below:
 - a) Fish of the Family Scombridae, except fish of the Genera *Scomberomorus*, *Acanthocybium*, *Grammatorcynus* and *Rastrelliger* (commonly known as mackerels); and
 - b) Fish of the Families Istiophoridae (commonly known as marlins) and Xiphiidae (commonly known as billfish).
2. 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*).
3. For the purposes of the condition imposed by regulation 59 of the Regulations, the concession holder must not possess on the nominated boat, amongst the total limit of 250 kilograms of specified finfish species, any more than 150 kilograms of striped trumpeter (*Latris lineata*).

Blue warehou

4. If the holder catches more than 200 kilograms of blue warehou (*Seriolella brama*) in any shot, the holder must not fish within 3 nautical miles of the location at which the shot is hauled for a period of 24 hours.

Shark obligations

5. 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.
6. 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.
7. 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.

Concurrent conditions

8. This concession must only be used in conjunction with another concession held by the same holder namely a Southern and Eastern Scalefish and Shark Fishery (SESSF) Trawl Boat 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.

Quota balancing obligations

9. The holder must not be over quota for any quota species.
10. 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.
11. 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 Act. 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.
12. 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.

13. 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 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 Act.

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 Act.

Observer/Electronic monitoring obligations

14. 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; 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.

Note 1: These conditions are in addition to the conditions concerning the taking of observers that are prescribed in the Regulations. Those conditions are in Part 7, Division 5, regulations 38 to 41

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.

Agent obligations

15. The holder accepts concurrent liability for all conduct by its servants or agents infringing the Act (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.

16. 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.
17. 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.
18. 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.
19. 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.
 - a) 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.
 - b) 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.
 - c) 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

20. 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 Act.

Temporary orders obligations

21. The holder must comply with any Temporary Order made under sub section 43(2) of the Act 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

22. AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the Act, 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 Regulations, 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 regulation 110(2); whichever is the earlier.

Area limitation

23. This concession is granted for the area of waters as specified in Schedule 1, Part 2, Section 5 of the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*.

Gear limitations

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

- a) Mid-water trawl, the mesh size of which must not be less than 90 millimetres at any part
- b) Demersal otter trawl when fishing for prawns: the mesh size of which must not be less than 40 millimetres and not greater than 60 millimetres at any part
- c) Demersal otter trawl when fishing for fish other than prawns:
 - i. Mesh size in the wings and the net mouth (shoulders, belly and veranda) not less than 115 millimetres (4 ½ inch)
 - ii. A mesh size of:
 - At least 90 millimetres single twine mesh; or
 - Double twine mesh of at least 102 millimetres (4 inch) or greater; or
 - At least 90 millimetres double twine mesh with one or more bycatch reduction devices
- d) Danish seine trawl, with a mesh size of not less than 38 millimetres at any part, or 75 millimetres in the codend when targeting flathead; and
- e) Pair trawling, the mesh size of which must not be less than 90 millimetres at any part.

In this condition, a bycatch reduction device means a device that allows fish and other animals to escape immediately after being taken in the net and is constructed as follows:

- i. a single large square mesh (of at least 90 millimetres) panel in the upper side of the codend bag (of minimum dimensions 15 bars X 20 bars); or
 - ii. a single large rotated mesh (of at least 90 millimetres) panel (called a T90) in the upper side of the codend bag (of minimum dimensions 15 meshes X 18 meshes).
25. For the purposes of fishing under this concession using a net(s), a mesh in a net must be measured 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.

Seabird management plan

- 26. The holder must not use the nominated boat to fish using demersal otter trawl or midwater trawl methods unless a seabird management plan for the boat has been approved by AFMA.
- 27. This concession may be suspended without further notice to the holder if the nominated boat departs on a fishing trip and a seabird management plan for the boat has not been approved by AFMA.
- 28. The seabird management plan must contain measures:
 - a) to minimise and avoid where possible, the discharge of biological material whilst fishing gear is in the water to avoid interactions with seabirds; and
 - b) where appropriate, require the holder to use physical mitigation devices in a particular manner to avoid interactions with seabirds.
- 29. For each fishing trip the holder must:
 - a) carry a copy of the AFMA approved seabird management plan on the nominated boat;
 - b) strictly comply with the measures and requirements contained in the seabird management plan;
 - c) ensure each member of the crew on board the nominated boat briefed on the content of the seabird management plan before each fishing trip; and
 - d) ensure each member of the crew on board the nominated boat complies with the measures and requirements of the seabird management plan.

Movement limitation

- 30. At least 24 hours before the boat is intending to enter the East Coast Deepwater Zone Fishery, if traveling from another Commonwealth fishery, the holder must give notice to AFMA on facsimile (02) 6225 5440 or email monitoring@afma.gov.au containing:
 - a) name and distinguishing symbol of the boat;
 - b) position of the boat;
 - c) estimated time of entry; and
 - d) quota sector through which, or to which the boat is intending to travel, if any.

31. Immediately before the boat enters the East Coast Deepwater Zone Fishery, if traveling from another Commonwealth Fishery, another notice must be given to AFMA. The report must include:
- a) quantity of each quota species carried on board the boat;
 - b) port or other place at which those fish are intended to be landed; and
 - c) estimated time and date those fish are intended to be landed.
32. If the boat has no quota species on board, immediately before the boat enters the East Coast Deepwater Zone Fishery if traveling from another Commonwealth Fishery, then, at each of those times, a report must be given to AFMA declaring in writing, that there is no quota species on board the boat.
33. If the boat has quota species on board, immediately before the boat enters the East Coast Deepwater Zone Fishery, if traveling from another Commonwealth Fishery, then the boat must be prepared for an inspection, if requested, by AFMA as follows:
- a) all fishing gear must be immediately stowed and secured; and
 - b) the boat must be:
 - i. taken directly to the port or other place specified by AFMA by the most direct route; and
 - ii. made available for inspection by AFMA at that port or place.
- All quota species on the boat must be unloaded before fishing commences in any other area of waters.

Other obligations

34. The holder must provide AFMA with a current emergency contact facility at all times when a nominated boat is being used under this concession.
35. 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.
36. 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; 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.

Mandatory AFMA supplied VMS

Direction to Fit

37. 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.

38. 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

39. 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 37 (a) or 38 (a), AFMA may suspend this concession pursuant to section 38(1)(c) of the Act.

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 Regulations.

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.

HANDLING AND TREATMENT OF BYCATCH

40. 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.).

Requirement to use electronic logbooks (e-log)

41. Where a concession holder has fished for fifty (50) days or more in the current or previous season; they must complete and submit the information contained in in the Eastern Finfish Trawl Daily Fishing Log (EFT01B or EFT01C) using an electronic logbook (e-log) transmission that complies with clauses 19 and 20 of the *Logbooks for Fisheries Determination 2017*.