



Australian Government

Australian Fisheries Management Authority

Eastern Tuna and Billfish Fishery Management Plan 2010

The AUSTRALIAN FISHERIES MANAGEMENT AUTHORITY determines this plan of management under section 17 of the *Fisheries Management Act 1991*.

Dated 20 December 2010

Common seal of the
Australian Fisheries
Management Authority

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Mike Kelly
Parliamentary Secretary for Agriculture, Fisheries and Forestry

Contents

Part 1	Preliminary	4
1.1	Name of Management Plan	4
1.2	Commencement.....	4
1.3	Definitions	4
1.4	Origin of geographical coordinates	6
1.5	Objectives (Act s 17 (5))	6
1.6	Measures by which objectives attained	6
1.7	Performance criteria for assessing measures to achieve objectives.....	7
1.8	Persons to whom this Management Plan does not apply.....	8
Part 2	Specific ecosystem requirements	8
2.1	Ecological risk management plan	8
2.2	Commonwealth harvest strategy	8
Part 3	Total allowable commercial catch (TACC)	9
3.1	Directions by AFMA (Act s.17(5A)).....	9
3.2	Determination of TACC.....	9
3.3	Quantity of fish that may be taken	10
3.4	AFMA to notify TACC and quota	10
Part 4	Statutory fishing rights and fishing permits	10
Division 4.1	Who may fish in the fishery	10
4.1	Who may engage in commercial fishing in the fishery	10
4.2	Foreign commercial fishing.....	11
4.3	Carrying or processing fish	12
4.4	Scientific research.....	12
Division 4.2	Overcatch and undercatch	12
4.5	Obligations relating to overcatch	12
4.6	Obligations relating to undercatch	13
Division 4.3	Grant of SFRs and fishing permits	14
4.7	Conditions of registration as an eligible person.....	14
4.8	Availability of grant of SFRs to longline SFR holders	14
4.9	Availability of grant of SFRs to minor line SFR holders.....	15
4.10	Availability of grant of SFRs to eastern skipjack permit holders.....	15
4.11	Availability of grant of boat SFRs.....	15
4.12	Limits on availability	15
4.13	Request for grant	15
4.14	Certificate showing grant	15
4.15	Permit to fish using another method	16
Division 4.4	Boat nomination	16
4.16	Nomination of boat.....	16
4.17	Request to cancel boat nomination	16
4.18	Removal of boat from Register	16
Part 5	Obligations of SFR holders	17
5.1	Observers and other requirements	17

5.2	Interactions with certain species and communities	17
Part 6	Miscellaneous	18
6.1	Replacement certificates and permits.....	18
6.2	Agents	18
6.3	Notices	19
Schedule 1	Area of the fishery	21
Part 1	AFZ area (other than the Coral Sea zone)	21
Part 2	Coral Sea zone	22
Part 3	High seas zone	22
Schedule 2	Primary species of fish	23

Part 1 Preliminary

1.1 Name of Management Plan

This Management Plan is the *Eastern Tuna and Billfish Fishery Management Plan 2010*.

1.2 Commencement

This Management Plan commences on the day after it is registered.

1.3 Definitions

In this Management Plan:

Act means the *Fisheries Management Act 1991*.

advisory committee means:

- (a) the Tropical Tuna Management Advisory Committee; or
- (b) if another Committee of a kind mentioned in section 56 of the *Fisheries Administration Act 1991* is established by AFMA under section 54 of that Act to give advice about the fishery – that committee.

approved means approved by AFMA.

area of the fishery means:

- (a) for an Australian boat – the area described in Part 1 of Schedule 1, the Coral Sea Zone and the high seas zone; and
- (b) in any other case – the Coral Sea zone and the area described in Part 1 of Schedule 1.

boat permit means a fishing permit granted under section 37 of the previous Plan.

boat SFR means a longline boat SFR, a minor line boat SFR or a Coral Sea boat SFR that is made available under section 4.11.

by-catch means marine life that is:

- (a) taken in the fishery and returned to the sea for any reason; or
- (b) affected by interacting with fishing equipment in the fishery, but not taken.

certificate, for an SFR, means a certificate given under subsection 22(2) of the Act as evidence of the grant of the SFR.

cetacean means a member of the sub-order Mysticeti or Odontoceti of the Order Cetacea.

commencement day means the day on which this Management Plan commences.

Coral Sea zone means the area described in Part 2 of Schedule 1.

Coral Sea zone permit means a fishing permit granted under section 38 of the previous Plan.

Eastern Tuna and Billfish Fishery means fishing for fish of a primary species, a secondary species or both, in the area of the fishery.

eligible person means a person who is registered as an eligible person for the grant of an SFR under section 26 of the Act.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999*.

ETBF Regulations means the *Fisheries Management (Eastern Tuna and*

Billfish Fishery) Regulations 2009.

fishery means the Eastern Tuna and Billfish Fishery.

fishing season means the period determined by AFMA.

high seas zone means the area described in Part 3 of Schedule 1.

holder, at a particular time, means:

- (a) for an SFR – the person who holds the right at that time because :
 - (i) the person owns the right and has not leased the right to another person under subsection 46(4D) of the Act; or
 - (ii) the person has leased the right from another person under that subsection; and
- (b) for a fishing permit:
 - (i) the person who is granted the permit under section 32 of the Act; or
 - (ii) if the permit has been transferred under section 32A of the Act – the most recent transferee; and
- (c) for a scientific permit – the person who is granted the permit under section 33 of the Act.

immediately before the revocation of the previous plan, in Division 4.3, means immediately before the revocation of the previous Plan came into force following registration on the Federal Register of Legislative Instruments.

longline SFR means an SFR that entitles the holder to engage in pelagic longline fishing in the fishery.

minor line means a device consisting of 1 or more hooks that is used in minor line fishing and is capable of catching only 1 fish at a time.

minor line fishing means trolling, or fishing using a rod and reel, handline or pole.

minor line SFR means an SFR that entitles the holder to engage in minor line fishing in the fishery.

nominated boat, for an SFR, means a boat the details of which are entered in the Register as the nominated boat for the SFR.

notice period means the period, mentioned in paragraph 25(f) of the Act, specified by AFMA in a notice published for the fishery under section 24 of the Act.

observer means an observer mentioned in paragraph 7(1)(ea) of the *Fisheries Administration Act 1991*.

owner, for an SFR, means:

- (a) the person who is granted the right under section 31 of the Act; or
- (b) if the right has been transferred and registered under section 46 of the Act – the person to whom the right was most recently transferred.

pelagic longline fishing means pelagic fishing using 1 mainline and a number of branchlines, each of which has 1 hook and is attached to the mainline by a branchline clip.

previous Plan means the *Eastern Tuna and Billfish Fishery Management Plan 2005*.

primary species means a species of fish mentioned in Schedule 2.

quota, for an SFR and a quota species, means the weight of fish of that species that may be taken, in a fishing season, under the SFR.

quota SFR means an SFR that authorises the holder to take a particular quota species.

quota species means the following species:

- (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*)

reference point has the same meaning as it has in the Fish Stocks Agreement.
secondary species means any species of fish that may be taken in the fishery and retained, other than a primary species.

SFR or **statutory fishing right** means, unless the contrary intention appears, a statutory fishing right granted under this Management Plan.

TACC, or **total allowable commercial catch**, for a quota species and a fishing season, means the total weight of fish of that species that, under this Management Plan, may be taken during that season.

VMS means vessel monitoring system.

1.4 Origin of geographical coordinates

The position of a geographical coordinate mentioned in this Management Plan is to be determined by reference to the Geocentric Datum of Australia (GDA94) as defined in *Gazette* No. GN35, 6 September 1995.

1.5 Objectives (Act s 17 (5))

The objectives of this Management Plan, and the objectives for AFMA to pursue when it is administering the Plan, are as follows:

- (a) to manage the fishery efficiently and cost-effectively for the Commonwealth;
- (b) to ensure that the exploitation of the resources of the fishery and the carrying on of any related activities are conducted in a manner consistent with the principles of ecologically sustainable development and the exercise of the precautionary principle, and, in particular, the need to have regard to the impact of fishing activities on by-catch species and the long-term sustainability of the marine environment;
- (c) to maximise the net economic returns to the Australian community from the management of the fishery;
- (d) to ensure AFMA's accountability to the fishing industry and to the Australian community in managing the resources of the fishery;
- (e) to reach Government targets for the recovery of the costs of AFMA in relation to the fishery;
- (f) to ensure the conservation and management measures taken in relation to the fishery implement Australia's obligations under relevant international agreements.

1.6 Measures by which objectives attained

For paragraph 17(5)(b) of the Act, the measures by which the objectives of this Management Plan are to be attained include the following:

- (a) providing the services needed to manage the fishery, including:
 - (i) data collection, research and consultation; and
 - (ii) services to ensure compliance with the Plan;
- (b) annually evaluating and, if necessary, revising the range, extent and cost of the services mentioned in paragraph (a);

- (c) reviewing ecological risk assessments of marine communities, quota and non-quota species, and protected species to determine the risk to the maintenance of an ecologically sustainable fishery;
- (d) developing, in cooperation with stakeholders, a plan to strategically address any high risks identified during an ecological risk assessment;
- (e) setting catch limits, or designing other measures, for non-quota species to ensure the ecological sustainability of these species;
- (f) setting catch limits and managing quota species in accordance with the Commonwealth Harvest Strategy Policy;
- (g) issuing directions prohibiting fishing in the fishery, or part of the fishery, during specified periods, informing holders of fishing concessions about those directions, and requiring the holders to comply with the directions;
- (h) granting SFRs to eligible persons;
- (i) consulting with the advisory committee about the management of the fishery;
- (j) in accordance with the government's cost recovery policy, preparing annual budgets and recommended levies to recover the costs of management that are attributable to the fishing industry;
- (k) identifying impediments to maximising the net economic returns to the Australian community in managing the resources of the fishery and developing strategies to minimise the effect of, or eliminate, the impediments;
- (l) reviewing and, if necessary, amending the Management Plan to improve the management of the fishery at least once during:
 - (i) the period of 5 years commencing on the day this Plan commenced; and
 - (ii) each subsequent period of 5 years.

1.7 Performance criteria for assessing measures to achieve objectives

- (1) For paragraph 17(5)(c) of the Act, the performance criteria for assessing the measures taken to achieve the objectives of this Management Plan are the following:
 - (a) that the range and cost of AFMA's services to the fishery are reviewed annually and;
 - (i) the review is published; and
 - (ii) the management of the fishery has been carried out cost-effectively;
 - (b) that the necessary risk assessments are carried out for quota species, non-quota species and protected species;
 - (c) that, in cooperation with stakeholders, a plan is developed to address any high risks identified during an ecological risk assessment;
 - (d) that catch limits, or other appropriate measures, are set for non-quota species if there is a risk to the sustainability of the species;
 - (e) that the management of quota species, including the use of catch limits, is done in accordance with the Harvest Strategy, and that actions taken in accordance with the Harvest Strategy are monitored, reviewed and, if appropriate, improved;
 - (f) that SFRs for each quota species are granted to eligible persons;

- (g) that, subject to the provisions relating to overcatch, the TACCs for a species are not exceeded;
 - (h) that the advisory committee was consulted on the management of the fishery;
 - (i) that the costs of the management of the fishery that are attributable to the fishing industry are recovered;
 - (j) that impediments to maximising the net economic returns to the Australian community in managing the resources of the fishery have been identified and strategies to minimise and eliminate those impediments have been developed;
 - (k) that any changes to the management of the fishery are assessed for their likely effect on maximising the resources of the fishery.
- (2) AFMA must assess the effectiveness of this Management Plan, including the measures taken to achieve the objectives of the Plan, at least once during:
- (a) the period of 5 years commencing on the day this Plan commenced; and
 - (b) each subsequent period of 5 years;
- by reference to the performance criteria mentioned in subsection (1) and by taking into account the advice of the advisory committee.

1.8 Persons to whom this Management Plan does not apply

This Management Plan does not apply to a person who:

- (a) is engaged in recreational fishing (whether from a charter boat or otherwise); or
- (b) is fishing in the AFZ in accordance with an agreement between the Commonwealth and the government of a foreign country; or
- (c) is fishing in waters outside the AFZ using a foreign boat.

Part 2 Specific ecosystem requirements

2.1 Ecological risk management plan

- (1) As soon as practicable after the commencement day, AFMA will establish an ecological risk management plan for the fishery.
- (2) The plan must require action to ensure that:
 - (a) information is gathered about the impact of the fishery on by-catch species; and
 - (b) all reasonable steps are taken to minimise interaction with sea birds, marine reptiles, marine mammals and fish of a kind mentioned in sections 15 and 15A of the Act; and
 - (c) the ecological impacts of fishing operations on habitats in the area of the fishery are minimised and kept at an acceptable level; and
 - (d) by-catch is reduced to, or kept at, a minimum and below a level that might threaten by-catch species.
- (3) AFMA will review the plan from time to time to ensure it remains appropriate for maintaining ecologically viable stocks of the quota species and an ecologically sustainable fishery.

2.2 Commonwealth harvest strategy

- (1) For subsection 17(5C) of the Act, the stock-specific reference points for

straddling fish stocks, highly migratory fish stocks and ecologically related fish stocks are as set out in the Eastern Tuna and Billfish Harvest Strategy (*ETBF Harvest Strategy*) approved by AFMA on 11 December 2007.

- (2) AFMA may review the ETBF Harvest Strategy, and change it as a result of the review, to ensure that it remains appropriate for maintaining ecologically viable stocks of the quota species and an ecologically sustainable fishery.
- (3) AFMA may establish, for a non-quota species, a Harvest Strategy that is appropriate for maintaining ecologically viable stocks of those species and an ecologically sustainable fishery.

Part 3 Total allowable commercial catch (TACC)

3.1 Directions by AFMA (Act s.17(5A))

- (1) AFMA may direct that fishing is not to be engaged in in the fishery, or in a particular part of the fishery, in a particular period or periods.
- (2) Before giving a direction, AFMA must consult, and consider the views of, the advisory committee about the content of the direction.
- (3) At least 7 days before a direction takes effect, AFMA must tell the holders of SFRs, fishing permits, scientific permits, foreign fishing licences and foreign master fishing licences for the fishery, in writing, about the direction.
- (4) However, if a direction is given in an emergency:
 - (a) subsections (2) and (3) do not apply; and
 - (b) AFMA must tell the holders of SFRs, fishing permits, scientific permits, foreign fishing licences and foreign master fishing licences about the direction as soon as it can practicably do so.
- (5) A direction under subsection (1) is a disallowable instrument for the purposes of the *Legislative Instruments Act 2003*.

3.2 Determination of TACC

- (1) Before the start of each fishing season, AFMA must determine the TACC for each quota species for one or more seasons.
- (2) When determining the TACC, AFMA must also determine:
 - (a) the determined weight or the determined percentage (or both) for section 4.5; and
 - (b) the determined percentage for section 4.6.
- (3) AFMA may, by determination, vary the TACC for a fishing season before the start of the season.
- (4) Before determining a TACC or any of the matters mentioned in subsection (2), AFMA must consider:
 - (a) information given by the advisory committee, other interested Australian and international bodies and other interested persons; and
 - (b) the total estimated catch by the commercial, recreational, indigenous and other users of the fishery; and
 - (c) information about the sustainability of marine species in the area of the fishery; and
 - (d) the Commonwealth Harvest Strategy Policy and ETBF Harvest Strategy; and
 - (e) the precautionary principle; and
 - (f) any decisions made by the Minister or an intergovernmental

- (g) Ministerial Council about resource sharing in the fishery; and the likely effect, for the fishing season, of any overcatch permitted under section 4.5.
- (5) A determination of a TACC must specify the TACC, expressed as:
 - (a) whole weight; or
 - (b) another weight, as specified in the determination.
- (6) If a determination of a TACC for a quota species and a fishing season is revoked or disallowed, the TACC for that species for the immediately preceding fishing season is taken to be the TACC for that species for the fishing season.

3.3 Quantity of fish that may be taken

The quota for an SFR for a quota species for a fishing season is:

$$\frac{T}{S}$$

where:

T is the TACC for the species for the fishing season;

S is the total number of SFRs in force for the species at the start of the fishing season.

3.4 AFMA to notify TACC and quota

Before the start of each fishing season, AFMA must send a notice to each owner of a quota SFR setting out, for the relevant quota species:

- (a) the TACC for the fishery and that species for the season; and
- (b) the number of quota SFRs for that species held by the owner; and
- (c) the quota that applies to an SFR for that species for the season; and
- (d) the owner's quota for the season.

Part 4 Statutory fishing rights and fishing permits

Division 4.1 Who may fish in the fishery

4.1 Who may engage in commercial fishing in the fishery

- (1) In this section:

commercial fishing means fishing (other than for scientific research about a primary species, a secondary species or a fishing method) using any one of the following kinds of equipment:

 - (a) pelagic longline equipment;
 - (b) minor line equipment;
 - (c) any other kind of equipment allowed by AFMA in a condition specified on:
 - (i) an SFR granted under this Plan; or
 - (ii) an SFR granted under another Management Plan; or
 - (iii) a fishing permit granted under section 32 of the Act authorising fishing in another fishery; or
 - (iv) a fishing permit granted under section 4.15.
- (2) A person may use an Australian boat in a fishing season for commercial fishing in the fishery only in accordance with this section.
- (3) A person may fish in the fishery (excluding the Coral Sea Zone) for a species

- using pelagic longline equipment only if:
- (a) the person holds a quota SFR for that species; and
 - (b) the SFR has unused quota for that species for the season; and
 - (c) the person holds a longline boat SFR granted for the fishery; and
 - (d) the person is using the boat nominated and registered for the boat SFR under section 4.16.
- (4) A person may fish in the Coral Sea Zone of the fishery for a species using pelagic longline equipment only if:
- (a) the person holds a quota SFR for that species; and
 - (b) the SFR has unused quota for that species for the season; and
 - (c) the person holds a Coral Sea boat SFR granted for the fishery; and
 - (d) the person holds a longline boat SFR; and
 - (e) the person is using the boat nominated and registered for the longline boat SFR and the Coral Sea Boat SFR under section 4.16.
- (5) A person may fish in the fishery for a species using minor line equipment only if:
- (a) the person holds a quota SFR for that species; and
 - (b) the SFR has unused quota for that species for the season; and
 - (c) the person holds a minor line boat SFR granted for the fishery; and
 - (d) the person is using the boat that is nominated and registered for the boat SFR under section 4.16.
- (6) Subject to subsections (7) and (8), a person may fish in the fishery for a quota species using equipment mentioned in paragraph (1)(c) only if:
- (a) the person holds a quota SFR for that species; and
 - (b) the SFR has unused quota for that species for the season.
- (7) A condition specified on an SFR granted under this Plan, or a fishing permit granted under section 4.15, must not authorise a person to take:
- (a) skipjack tuna using purse seine equipment;
 - (b) southern bluefin tuna.
- (8) (a) Subsection (6) does not apply to the holder of an eastern skipjack purse seine permit until AFMA publishes a notice under this subsection.
- (b) As soon as practicable after AFMA grants SFRs under section 4.10 to persons registered as eligible for a grant under that subsection, AFMA must publish a notice in the Gazette stating that subsection (6) applies to the holder of an eastern skipjack purse seine permit.
- (9) In subsections (3)-(6), *unused quota* includes a weight of fish authorised to be taken under section 4.6.
- (10) A person may use the nominated boat to take fish that the person proposes to use for bait if the person:
- (a) is entitled under this section to fish in the fishery; and
 - (b) acts in accordance with any Commonwealth or State law that applies where the fishing takes place.

4.2 Foreign commercial fishing

- (1) A person may use a foreign boat in a fishing season for commercial fishing in the part of the fishery that lies within the AFZ only in accordance with this section.
- (2) The person must hold a foreign fishing licence that authorises the use of the boat for the fishing.
- (3) If the person takes a quota species:

- (a) the person must hold a quota SFR for that species; and
 - (b) the SFR must have unused quota for that species for the season.
- (4) This section does not authorise a person to take skipjack tuna using purse seine equipment.
- (5) This section does not apply to a person who uses a foreign boat:
- (a) in the high seas zone; or
 - (b) to engage in scientific research in the fishery.

4.3 Carrying or processing fish

A person may use a boat to carry or process fish taken under section 4.1 or 4.2 only if:

- (a) the boat is the nominated boat for an SFR holder; and
- (b) the person is the holder of a permit, or boat SFR, that authorises the carrying or processing.

4.4 Scientific research

A person may use a boat in the area of the fishery for scientific research about the fishery only if the person holds a scientific permit that authorises the use of the boat in the area of the fishery for that purpose.

Division 4.2 Overcatch and undercatch

4.5 Obligations relating to overcatch

- (1) Subsection (2) applies to the holder of a quota SFR for a quota species if:
- (a) in a fishing season (the *first season*), the holder takes (or is taken, by a previous application of this section, to have taken) a weight of fish of the quota species that exceeds, by a percentage less than the determined percentage, the quota allocated to the quota SFRs for that species held by the holder in that season; and
 - (b) at the end of the last day of the second month of the following fishing season (the *second season*), the holder holds quota SFRs that would, but for this section, entitle the holder to take a weight of fish of that species at least equal to the weight by which the holder exceeded the quota mentioned in paragraph (a).
- (2) The holder is taken to have taken:
- (a) during the first season, a weight of fish of the quota species mentioned in paragraph (1)(a) that is equal to the quota allocated to the quota SFRs for the species held by the holder in the first season; and
 - (b) during the second season, a weight of fish of that species equal to the weight by which the holder exceeded the holder's quota of that species in the first season, in addition to the weight actually taken by the holder in the second season.
- (3) Subsection (4) applies to the holder of a quota SFR for a quota species if:
- (a) in a fishing season (the *first season*), the holder takes (or is taken, by a previous application of this section, to have taken) a weight of fish of the quota species that exceeds the holder's quota for that species in the season by:
 - (i) at least the determined percentage; and
 - (ii) an amount equal to or less than the sum of:

- (A) the result of multiplying the holder's quota in the first season by the determined percentage; and
 - (B) the determined weight; and
- (b) at the end of the last day of the second month of the following fishing season (the *second season*), the holder holds quota that would, apart from this section, entitle the holder to take a weight of fish of that species at least equal to the sum of:
 - (i) the result of multiplying the holder's quota in the first season by the determined percentage; and
 - (ii) twice the amount by which the holder's overcatch in the first season exceeded the determined percentage.
- (4) The holder is taken to have taken:
 - (a) during the first season, a weight of fish of the quota species mentioned in paragraph (3)(a) that is equal to the quota allocated to the quota SFRs held by the holder in the first season; and
 - (b) during the second season, a weight of fish of that species equal to the sum of:
 - (i) the result of multiplying the holder's quota in the first season by the determined percentage; and
 - (ii) twice the amount by which the holder's overcatch in the first season exceeded the determined percentage,
 in addition to the weight actually taken by the holder in the second season.
- (5) In this section:
 - **determined percentage**, for a quota species and a fishing season, means a percentage of the quota allocated to the quota SFR for that species held by a person for that season, specified in a determination made by AFMA for the purposes of this section for that species and season.
 - **determined weight**, for a quota species and a fishing season, means the weight of that species specified in a determination made by AFMA for the purposes of this section for that species and season.
- (6) For this section, a quota SFR holder's *overcatch* of a quota species in a fishing season is the weight of fish of that species taken by the holder in the season that exceeds the holder's quota for that species for the season.

4.6 Obligations relating to undercatch

- (1) This section applies to the holder of a quota SFR if:
 - (a) in a fishing season (the *first season*), the holder takes:
 - (i) an amount of a quota species that is less than the quota for that species allocated to the SFRs held by the holder in the fishing season; or
 - (ii) no fish of a quota species; and
 - (b) in the following fishing season, (the *second season*), the holder holds one or more quota SFRs for that species.
- (2) The holder may, during the second season, take a weight of fish of the quota species mentioned in paragraph (1)(a) that is the sum of:
 - (a) the quota allocated to SFRs held by the holder in the second season; and

- (b) an amount equal to the lesser of:
 - (i) the difference between the weight of fish of that species taken by the holder in the first season and the quota allocated to the holder's SFRs in that season; and
 - (ii) the result of multiplying the holder's quota for that species in the first season by the determined percentage for that species and season.
- (3) For subparagraph (2)(b)(ii), the *determined percentage*, for a quota species and a fishing season, is a percentage of the quota allocated to the quota SFRs for that species held by a person for that season, specified in a determination made by AFMA for the purpose of this section for that species and season.

Division 4.3 Grant of SFRs and fishing permits

4.7 Conditions of registration as an eligible person

- (1) This section applies if AFMA publishes a notice under section 24 of the Act:
 - (a) declaring that AFMA intends to grant SFRs for the fishery; and
 - (b) specifying the notice period.
- (2) For paragraph 26(2)(a) of the Act, a person satisfies the conditions for registration if:
 - (a) before the end of the notice period, the person applied to AFMA for registration as an eligible person for a grant of 1 or more SFRs for the fishery; and
 - (b) immediately before the revocation of the previous Plan, the person held:
 - (i) a longline SFR under that Plan; or
 - (ii) a minor line SFR under that Plan; or
 - (iii) a boat permit under that Plan; or
 - (iv) a Coral Sea Zone permit under that Plan; and
 - (c) the person has not exercised an option within the meaning of section 31A of the Act arising out of the previous Plan.
- (3) A person who held an eastern skipjack purse seine permit immediately before the revocation of the previous Plan (whether or not the person also held an SFR mentioned in paragraph (2)(b)) satisfies the conditions for registration if the person applied before the end of the notice period to AFMA for registration as an eligible person for a grant of 1 or more SFRs for the fishery.

4.8 Availability of grant of SFRs to longline SFR holders

For each longline SFR that an eligible person held immediately before the revocation of the previous Plan, grants of the following SFRs are available to the person:

- (a) 1 striped marlin SFR; and
- (b) 1 bigeye SFR; and
- (c) 1 broadbill SFR; and
- (d) 1 yellowfin SFR; and
- (e) 1 albacore SFR;

less any SFRs granted to the person on this basis through the exercise of an option referred to in paragraph 4.7(2)(c).

4.9 Availability of grant of SFRs to minor line SFR holders

For each minor line SFR that an eligible person held immediately before the revocation of the previous Plan, grants of the following SFRs are available to the person:

- (a) 455 striped marlin SFRs; and
- (b) 455 bigeye SFRs; and
- (c) 455 broadbill SFRs; and
- (d) 455 yellowfin SFRs; and
- (e) 455 albacore SFRs;

less any SFRs granted to the person on this basis through the exercise of an option referred to in paragraph 4.7(2)(c).

4.10 Availability of grant of SFRs to eastern skipjack permit holders

For each eastern skipjack purse seine permit that an eligible person held immediately before the revocation of the previous Plan, grants of the following SFRs are available to the person:

- (a) 455 striped marlin SFRs; and
- (b) 455 bigeye SFRs; and
- (c) 455 broadbill SFRs; and
- (d) 455 yellowfin SFRs; and
- (e) 455 albacore SFRs.

4.11 Availability of grant of boat SFRs

Grants of boat SFRs are available, as follows:

- (a) for each person who held a boat permit immediately before the revocation of the previous Plan, 1 longline boat SFR for each boat permit held; and
- (b) for each person who owned a minor line SFR immediately before the revocation of the previous Plan, 1 minor line boat SFR for each minor line SFR owned; and
- (c) for each person who held a Coral Sea zone permit, 1 Coral Sea boat SFR for each Coral Sea zone permit held;

less any SFRs granted to the person on this basis through the exercise of an option referred to in paragraph 4.7(2)(c).

4.12 Limits on availability

A grant of an SFR is not available to a person under section 4.8, 4.9 or 4.11 if a grant is also available to the person under section 4.10.

4.13 Request for grant

If a person is an eligible person, the person is taken to have made a request under section 31 of the Act for a grant of an SFR or SFRs that are available to the person under this Part.

4.14 Certificate showing grant

- (1) AFMA must note the following details on the certificate for an SFR:
 - (a) the name of the person to whom the SFR is granted;
 - (b) a description of the SFR;

- (c) that the SFR is granted for the fishery.
- (2) A certificate may show the grant of more than 1 SFR to a person.
- (3) AFMA must give to a person to whom an SFR is granted an extract of the Register that:
 - (a) states the conditions to which the SFR is subject; and
 - (b) is signed for AFMA by a person having authority to sign it.

4.15 Permit to fish using another method

- (1) The holder of a quota SFR may apply to AFMA for a fishing permit to fish in the fishery using a method other than pelagic longline fishing (the *new method*).
- (2) AFMA may, as a condition on the permit, require the holder to hold unused quota SFRs for all quota species in order to fish using the new method.
- (3) If the person takes a quota species:
 - (a) the person must hold a quota SFR for that species; and
 - (b) the SFR must have unused quota for that species for the season.
- (4) A permit mentioned in this section is not transferable.

Note 1 - A decision under section 4.7 (being a decision under s26 of the Act) or section 31 of the Act (grant of SFRs on request) is subject to reconsideration under section 165 of the Act (see subsection 165(2)). Application may be made to the Administrative Appeals Tribunal for review of a decision under section 165 of the Act (see subsection 165(7)).

Note 2 – An eligible person may apply to the Statutory Fishing Rights Allocation Review Panel under section 143 of the Act for review of a decision under section 4.8, 4.9, 4.10 or 4.11.

Division 4.4 Boat nomination

4.16 Nomination of boat

- (1) The holder of a boat SFR must nominate a boat to be used under the SFR before using the boat in accordance with the SFR.
- (2) If the holder of a boat SFR applies to nominate a boat, AFMA must register the boat as the nominated boat unless:
 - (a) the SFR holder has not complied with the VMS requirements for the SFR; or
 - (b) the SFR already has a boat nominated to it; or
 - (c) an observer and their safety and monitoring equipment cannot be safely carried on the boat; or
 - (d) registration of the nominated boat would be contrary to a condition of the SFR.

4.17 Request to cancel boat nomination

- (1) The holder of a boat SFR for which a boat is the nominated boat may apply in writing to AFMA, in an approved form, to cancel the nomination.
- (2) On receiving the application AFMA must cancel the nomination.

4.18 Removal of boat from Register

- (1) AFMA may remove the name of a nominated boat from the Register if:

- (a) an observer asks to be carried on the boat during a fishing trip; and
 - (b) without reasonable excuse, the observer's request is refused by the master of the boat or the holder of the SFR for which the boat is nominated.
- (2) The holder may seek a review of a decision to remove the name of the boat from the Register as if the decision were a reviewable decision under section 165 of the Act.

Part 5 Obligations of SFR holders

5.1 Observers and other requirements

- (1) The holder of an SFR must:
- (a) carry an observer and the observer's safety and monitoring equipment on the boat if AFMA asks the holder to do so; and
 - (b) retain any by-catch if:
 - (i) AFMA makes a reasonable request of the holder to do so;
 - (ii) a law of the Commonwealth obliges the holder to do so; and.
 - (c) if AFMA asks the holder to give AFMA reasonable access to biological, economic or technical information, or biological samples available to the holder – give AFMA reasonable access to the information or samples; and
 - (d) carry on board the nominated boat for the SFR a copy of the extract from the Register that states the name of the boat.
- (2) The holder of a boat which is nominated to a boat SFR, or to a permit to which subsections 4.1(6) or 4.1(8) apply, must, unless AFMA determines otherwise, have fitted to the boat a VMS that:
- (a) is installed in accordance with guidelines published by AFMA; and
 - (b) has an *automatic location communicator* of a kind approved by AFMA as part of the system; and
 - (c) is operated continuously unless otherwise agreed by AFMA; and
 - (d) has a personal computer capable of receiving e-mail as part of the system; and
 - (e) is operated continuously unless otherwise agreed by AFMA; and
 - (f) is operated in accordance with the manufacturer's specifications and operating instructions.
- (3) Unless AFMA approves otherwise, the holder must ensure that the VMS is operating in accordance with the manufacturer's instructions at all times.
- (4) For paragraph 2(b), *automatic location communicator* means a device on a boat that transmits information about the location of the boat and, in conjunction with 1 or more other devices, transmits additional information about fishing activities being undertaken by the boat.
- (5) The holder of an SFR must ensure that fish landed from the fishery is disposed of (whether by sale or otherwise) only to the holder of a fish receiver permit.

5.2 Interactions with certain species and communities

- (1) The holder of a concession must take all reasonable steps to ensure that by-catch and the impact of fishing operations on the marine environment are kept to a minimum.
- (2) In particular, the holder must take all reasonable steps to:

- (a) avoid interactions with the following:
 - (i) cetaceans;
 - (ii) marine species listed for section 248 of the EPBC Act;
 - (iii) migratory species listed for section 209 of the EPBC Act;
 - (iv) threatened ecological communities listed for section 181 of the EPBC Act;
 - (v) threatened species listed for section 178 of the EPBC Act; and
 - (b) ensure that anything that may harm the marine environment (especially an object used to hold a light-emitting chemical) is not disposed of at sea.
- (3) If the activities of the nominated boat for an SFR result in an interaction with a species or community mentioned in subsection (2), the holder of the SFR must:
- (a) record details of the interaction in a logbook kept for that purpose; and
 - (b) if there is an observer on the boat:
 - (i) immediately tell the observer about the interaction, and allow the observer to observe its consequence; and
 - (ii) give whatever assistance is necessary for the observer to collect any data, or make any observations, requested by AFMA; and
 - (c) if the interaction results in an injury to a member of the species or community, do everything that can practicably be done to give aid to it; and
 - (d) if the interaction results in the death of a member of the species or community, and it is necessary to discharge its carcass from the boat, do so in a way that does not attract birds or mammals to the boat; and
 - (e) if the interaction results in the death of, or injury to, a member of the species or community, report the interaction in accordance with regulations made for the purpose of this section.

Part 6 Miscellaneous

6.1 Replacement certificates and permits

- (1) If a certificate for an SFR, or fishing permit, is lost, stolen, destroyed or otherwise not available to the owner of the SFR or permit, the owner may ask AFMA, in writing, to give the owner a replacement.
- (2) The request must include:
 - (a) a statement explaining why the certificate or permit is unavailable; and
 - (b) an undertaking by the owner to surrender the certificate or permit to AFMA if it becomes available.

6.2 Agents

- (1) If the holder of an SFR appoints a person to be the holder's agent for a matter to which this Management Plan applies, the holder must give AFMA a notice that states:
 - (a) the agent's name; and
 - (b) the powers the agent may exercise.
- (2) A notice must have with it the instrument, or a certified copy of the instrument, appointing the agent.
- (3) For this Management Plan, the agent's appointment is of no effect unless AFMA has been notified of the appointment under subsection (1).

- (4) In making a decision on an application under this Management Plan:
- (a) AFMA may assume that a notice given under this section has been properly given; and
 - (b) AFMA need not verify, by other means, the agent's authority to make the application.

6.3 Notices

- (1) In this section:
- address** means:
- (a) for the holder of an SFR – the holder's address stated in the Register; and
 - (b) for the holder of a fishing permit – the last address recorded by AFMA for the holder of the permit.
- fax number** means:
- (a) for the holder of an SFR – the holder's fax number stated in the Register; and
 - (b) for the holder of a fishing permit – the last fax number recorded by AFMA for the holder of the permit.
- notice** means a notice that is required, or allowed, by this Management Plan to be given in writing.
- working day**, in a place, means a day that is not:
- (a) a Saturday or Sunday; or
 - (b) a public holiday in the place; or
 - (c) a day in the period between Christmas day and New Year's day.
- (2) A notice to the holder of an SFR or a fishing permit is taken to be given to the holder if it is:
- (a) delivered to the holder's residential or office address; or
 - (b) posted to the holder's postal address; or
 - (c) sent by fax to the holder's fax number; or
 - (d) sent by email to the holder's email address.
- (3) A notice given to the holder of an SFR or a fishing permit under this section is taken to have been given to the holder:
- (a) if the notice is delivered to the holder's residential or office address – on the day when it is delivered; and
 - (b) if the notice is sent by fax to the holder's fax number or by email to the holder's email address:
 - (i) on a working day between 9 am and 4 pm – 1 hour after the notice is sent; and
 - (ii) otherwise – at 9 am on the next working day after the day when the notice is sent.
- (4) A notice to a person is taken to have been given to the person if it is delivered, or sent by fax or email, to the person's last known address.
- (5) A notice to AFMA must be addressed to the Manager, Licensing and Quota Management Australian Fisheries Management Authority, and:
- (a) delivered to the reception desk at:
 - Level 6
 - 73 Northbourne Ave
 - CIVIC ACT 2610; or
 - (b) posted to:
 - Box 7051

Canberra Business Centre
ACT 2610; or

- (c) sent by fax (from within Australia) to:
(02) 6225 5500; or
 - (d) sent by fax (from outside Australia) to:
612 6225 5500; or
 - (e) sent by email to:
licensing@afma.gov.au; or
 - (f) delivered, posted or sent by fax or email to another office address, postal address, fax number or email address notified by AFMA by notice published in a newspaper circulating in the State or Territory in which the address or fax receiver is located.
- (6) A notice given to AFMA under this section is taken to have been given to AFMA:
- (a) if the notice is delivered to the address mentioned in paragraph (5)(a), or posted to the address mentioned in paragraph (5)(b) – on the day when it is delivered; and
 - (b) if the notice is sent by fax to the fax number mentioned in paragraph (5)(c) or (d) or by email to the email address mentioned in paragraph (5)(e):
 - (i) on a working day between 9 am and 4 pm – 1 hour after the notice is sent; and
 - (ii) otherwise – at 9 am on the next working day after the day when the notice is sent.
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Schedule 1 Area of the fishery

Part 1 AFZ area (other than the Coral Sea zone)

The parts of the AFZ that are:

- (a) within the area bounded by a notional line beginning at the intersection of the eastern coastline of the mainland at low water with the meridian of longitude 141° E, in the vicinity of the border between Victoria and South Australia and running:
- south along that meridian to its intersection with the outer limit of the AFZ; and
 - generally southerly, easterly and northerly along that outer limit to its intersection with the meridian of longitude 144° 28' E that is off the coast of Queensland; and
 - south along that meridian to its intersection with the parallel of latitude 9° 54' S; and
 - south-westerly along the geodesic to the point of latitude 10° 15' S, longitude 144° 12' E; and
 - southerly along the geodesic to the point of latitude 10° 28' S, longitude 144° 10' E; and
 - west along that parallel to its intersection with the meridian of longitude 142° 31' 49" E; and
 - south along that meridian to its intersection with the northern coastline of the mainland at low water, in the vicinity of Cape York; and
 - generally southerly along that coastline at low water to the point where the line began; and
- (b) adjacent to Norfolk Island, except the area bounded by a notional line beginning at the point of latitude 28° 35' S, longitude 167° 25' E, and running:
- east along that parallel to its intersection with the meridian of longitude 168° 25' E; and
 - south along that meridian to its intersection with the parallel of latitude 29° 50' S; and
 - west along that parallel to its intersection with the meridian of longitude 167° 25' E; and
 - north along that meridian to the point where the line began.

- *Note:* If an arrangement about a particular fishery is made under Division 3 of Part 5 of the Act, State coastal waters may be taken to be part of the AFZ for the purposes of the management of the fishery: see s.76 of the Act.

Part 2 Coral Sea zone

The part of the AFZ that is within the area bounded by a notional line beginning at the intersection of the eastern coastline of the mainland at low water with the parallel of latitude 12° S, in the vicinity of Shelburne Bay, and running:

- east along that parallel to its intersection with the meridian of longitude 145° E; and
- southerly along the geodesic to the point of latitude 14° S, longitude 147° E; and
- southerly along the geodesic to the point of latitude 17° S, longitude 149° E; and
- south along that meridian to its intersection with the parallel of latitude 18° S; and
- east along that parallel to its intersection with the meridian of longitude 152° E; and
- south along that meridian to its intersection with the parallel of latitude 20° 28' 49" S; and
- west along that parallel to its intersection with the eastern coastline of the mainland at low water, in the vicinity of Proserpine; and
- generally northerly along that coastline at low water to the point where the line began.

Part 3 High seas zone

The part of the Pacific Ocean, other than an area that is within the AFZ or the EEZ of a foreign country, that is within the area bounded by a notional line beginning at the intersection of the south coast of Australia and the meridian of longitude 141° E, and running:

- south to its intersection with the parallel of latitude 55° S; and
- east along that parallel to its intersection with the meridian of longitude 150° E; and
- south along that meridian to its intersection with the parallel of latitude 60° S; and
- east along that parallel to its intersection with the meridian of longitude 130° W; and
- north along that meridian to its intersection with the parallel of latitude 4° S; and
- west along that parallel to its intersection with the meridian of

longitude 150° W; and

- north along that meridian.

Note: Under international law, the Exclusive Economic Zone (EEZ) of a country generally extends 200 nautical miles from the baseline of a country. However, the presence of islands and reefs may extend this limit. Holders of fishing permits should contact the coastal state (within the meaning it has in the *Seas and Submerged Lands Act 1973*) to determine the exact coordinates of its EEZ boundaries.

Schedule 2 Primary species of fish

Item	Common name	Scientific name
1	Albacore tuna	<i>Thunnus alalunga</i>
2	Bigeye tuna	<i>Thunnus obesus</i>
3	Billfish	Families Istiophoridae and Xiphiidae
4	Longtail tuna	<i>Thunnus tonggol</i>
5	Northern bluefin tuna	<i>Thunnus orientalis</i>
6	Rays bream (or pomfret)	Family Bramidae
7	Skipjack tuna	<i>Katsuwonus pelamis</i>
8	Yellowfin tuna	<i>Thunnus albacares</i>