Southern Squid Jig Fishery Management Plan 2005

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

Dated 8 March 2005

PETER WITHERIDGE
Executive Secretary

Common seal of the Australian Fisheries Management Authority

Accepted on 20 April 2005

IAN MACDONALD
Minister for Fisheries, Forestry and Conservation
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1 Name of Management Plan

This Management Plan is the Southern Squid Jig Fishery Management Plan 2005.

Note This Management Plan, made under the Fisheries Management Act 1991, manages only commercial fishing for squid using squid jigging machines in the area of the fishery. Commercial fishing for squid using trawl methods is managed under the Southern and Eastern Scalefish and Shark Fishery Management Plan 2003.

2 Commencement

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

3 Definitions

In this Management Plan:


approved form means the form approved by AFMA for the section in which the term is used.

area of the fishery means the area described in Schedule 1.

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.

by-catch action plan means the plan mentioned in section 9.

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

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


fishery means the Southern Squid Jig Fishery.

fishing year means a calendar year.

gear SFR means a statutory fishing right, granted under this Management Plan, that entitles the holder to engage in squid jigging in the fishery.

holder, at a particular time, means:
(a) in relation to a gear SFR — the person who holds the right at that time because:
(i) the person is the owner of the right and has not leased the right to another person under section 29; or
(ii) the person has, under section 29, leased the right from another person, and has not further leased the right under section 29; and
Section 3

(b) in relation to 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 subsection 32 (10) of the Act, the most recent transferee of the permit; and
(c) in relation to a scientific permit — the person who is granted the permit under section 33 of the Act.

**interested person**, in relation to a determination made, or a direction given, under this Management Plan means:
(a) a person who can demonstrate, to the satisfaction of AFMA, an ongoing involvement in the fishery that is likely to be affected by the determination or direction; or
(b) an organisation or association (whether incorporated or not) the objects or purposes of which include, or the activities of which largely relate to, the fishery.

**lease**, of a gear SFR, means a lease mentioned in section 29.

**nominated boat**, for a gear SFR, means a boat the details of which are entered in the Register, under section 45 of the Act, as the nominated boat for the SFR.

**observer** means a person who is authorised by AFMA to carry out the functions of an observer under this Management Plan.

**owner**, in relation to a gear SFR, means:
(a) the person who is granted the right under section 31 of the Act; or
(b) if the right has been transferred under section 27 of this Management Plan — the most recent transferee of the right under that section.

**Southern Squid Jig Fishery** means squid jigging in the area of the fishery.

**SquidFAG** means the Southern Squid Jig Fishery Assessment Group established by AFMA to advise on the status of squid stocks.

**squid jigging** means fishing for squid using a squid jigging machine.

**squid jigging machine** means a device consisting of 1 or more jig lines, to which barbless lures are attached, that are rotated on elliptical spools by an electric motor.

**SquidMAC** means the Southern Squid Jig Fishery Management Advisory Committee established under section 54 of the Fisheries Administration Act 1991.

**standard squid jigging machine** means a squid jigging machine that has 2 elliptical spools with 1 jig line on each spool.

**total allowable effort** or **TAE**, for a fishing year, means the total number of standard squid jigging machines that may be used for squid jigging in the fishery in the fishing year.

**trip** means a voyage by boat that:
(a) begins at a place on, or within, the coastline of Australia; and
(b) proceeds to and from, or through, the area of the fishery; and
Section 4

(c) ends (whether or not the boat calls at a place outside Australia) at a place on, or within, the coastline of Australia where fish taken, using the boat, are unloaded.

Note Unless otherwise stated, a term used in this Management Plan and in the Act has the same meaning in this Management Plan as it has in the Act. The following terms are defined in subsection 4(1) of the Act:
- AFMA
- AFZ
- Australian boat
- coastal waters
- fish
- fishing
- fishing permit
- officer
- Panel
- precautionary principle
- Register
- scientific permit
- statutory fishing right
- take.

4 Origin of geographical coordinates

The position of a geographic coordinate mentioned in this Management Plan is to be determined by reference to the Geocentric Datum of Australia (GDA94), as defined in Gazette No. GN 35, 6 September 1995.

5 Objectives (Act s 17(5))

The objectives of this Management 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 economic efficiency in the exploitation of the resources 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 meet Government targets for the recovery of the costs of AFMA in relation to the fishery;
(f) to ensure, through proper conservation and management measures, that the living resources of the fishery are not endangered by over-exploitation;
(g) to ensure the best use of the living resources of the fishery;
(h) to ensure that conservation and management measures in the fishery implement Australia’s obligations under international agreements that deal with fish stocks;

(i) to ensure, as far as practicable, that measures adopted in pursuit of these objectives are not inconsistent with the preservation, conservation and protection of all whale species.

6 Measures by which the objectives are to be attained (Act s 17 (5))

The measures by which the objectives of this Management Plan are to be attained include the following:

(a) providing the services needed, including services in support of SquidMAC, to develop sound and cost-effective fisheries management practices for the fishery;

(b) revising the range, extent and cost of the services mentioned in paragraph (a), as necessary;

(c) ensuring that the management practices of the fishery take into account the results of any research conducted in relation to the fishery;

(d) monitoring the total catch for, and effort used in, the fishery against the reference points determined under section 10;

(e) developing and implementing a strategy to collect, monitor and assess data that is related to the management of the fishery;

(f) preparing, implementing and reviewing a by-catch action plan;

(g) developing and implementing a research program to support the management of the fishery;

(h) developing and implementing a program of effort monitoring and surveillance to ensure that the Management Plan is complied with;

(i) if necessary, giving directions that fishing is not to be engaged in in the fishery, or a particular part of the fishery, during a particular period or periods;

(j) granting transferable statutory fishing rights for the fishery to eligible persons;

(k) developing and implementing a system for collecting data that can be used to assess the economic efficiency of the fishery;

(l) publishing accurate information about the management of the fishery;

(m) in accordance with the government’s cost recovery policy, preparing annual budgets and recommending levies to recover the costs of management that are attributable to the fishing industry.
7 Performance criteria against which measures taken may be assessed (Act s 17 (5))

(1) The performance criteria against which the measures taken may be assessed are as follows:

(a) that cost-effective and high quality research is carried out in relation to the fishery in accordance with a 5-year strategic research plan, the results of which are:
   (i) included in the assessment process for the fishery; and
   (ii) published in the assessment reports for the fishery; and
   (iii) taken into consideration in determining the total allowable effort for a fishing year;
(b) that the management of the fishery is acknowledged by government and key stakeholders to be pursuing a cost-effective service;
(c) that data is collected and analysed in a timely manner to enable:
   (i) evaluation of the effectiveness of the management measures implemented to maintain the resources of the fishery at, or rebuild the resources to, an acceptable level; and
   (ii) modification of those measures;
(d) that a by-catch action plan is implemented and reviewed;
(e) that data is collected, and appropriately verified, to enable the impact of taking squid in the fishery to be assessed;
(f) that the key risks to the ecologically sustainable development of the fishery are identified and appropriate action taken to manage the risks;
(g) that transferable statutory fishing rights are granted to eligible persons;
(h) that data about the current and potential net economic returns of the fishery has been collected and analysed to enable:
   (i) assessment of whether the data is consistent with improvements in the economic efficiency of the fishery; and
   (ii) institutional arrangements to be modified, if necessary, to allow improvements in the economic efficiency of the fishery;
   (i) that the budgetary objectives of the fishery are achieved.

(2) AFMA and SquidMAC must, from time to time, assess the effectiveness of this Management Plan, including the measures taken to achieve the objectives of the Plan, by reference to the performance criteria mentioned in subsection (1).

(3) AFMA must include in its annual report for each financial year a statement of the extent to which the performance criteria mentioned in subsection (1) were met in the year.
8 Persons to whom this Management Plan applies

This Management Plan applies to a person who is engaged in, or intends to engage in, any of the following in the area of the fishery:

(a) commercial fishing for squid using a squid jigging machine;
(b) scientific research using a squid jigging machine.
Part 2   Specific ecosystem requirements

Section 9

By-catch (Act s 17 (6D))

(1) AFMA must prepare and implement a by-catch action plan for the fishery.

(2) AFMA must review the by-catch action plan at least once every second year, while it is in force.

(3) A by-catch action plan must require action to ensure that:
   a) information is gathered about by-catch; and
   b) all reasonable steps are taken to minimise incidental interactions with seabirds, 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 will allow by-catch stocks to be maintained at an ecologically sustainable level.

(4) In preparing a by-catch action plan, AFMA must take into account:
   a) the protection given to whales and other cetaceans under Division 3 of Part 13 of the EPBC Act; and
   b) the requirement under the EPBC Act for the protection of:
      i) marine species listed for section 248 of that Act; and
      ii) migratory species listed for section 209 of that Act; and
      iii) threatened ecological communities listed for section 181 of that Act; and
      iv) threatened species listed for section 178 of that Act.

(5) If information gathered under a by-catch action plan shows that it is necessary to do so, AFMA must consider:
   a) making appropriate amendments to this Management Plan; or
   b) issuing an appropriate direction under section 18; or
   c) making appropriate changes to the conditions imposed on holders of gear SFRs.

Reference points

(1) As soon as practicable after this Management Plan comes into force, AFMA must determine reference points for squid that are appropriate for maintaining ecologically viable stocks of squid and an ecologically sustainable fishery.

(2) Each year, AFMA may review the reference points set under subsection (1) to ensure that they remain appropriate for maintaining ecologically viable stocks of squid and an ecologically sustainable fishery.
Part 3  Total allowable effort

11  Determination of TAE (Act s 17 (6))

(1) AFMA must, before the start of each fishing year, determine the TAE for the fishery for the fishing year.

(2) Before making a determination under subsection (1), AFMA:
(a) must consult, and consider the views of, SquidMAC and SquidFAG; and
(b) may consult, and consider the views of, any other interested person.

Note 1  AFMA may determine the fishing capacity permitted for the fishery — see paragraph 17 (6) (aa) of the Act.

Note 2  A determination under this section is a legislative instrument — see subsection 17 (6B) of the Act and paragraph 6 (d) of the Legislative Instruments Act 2003.

12  Number of standard machines allocated to SFRs

(1) The number of standard squid jigging machines allocated to a gear SFR for a fishing year is worked out by dividing the TAE for the fishing year by the total number of gear SFRs in force at the start of the fishing year.

(2) For subsection (1), the total number of gear SFRs for the fishery in force at the start of a fishing year is taken to include any gear SFRs that, at that time, are suspended under subsection 38 (1) or (3), or paragraph 98 (3) (d), of the Act.

Note  See section 15 for the number of squid jigging machines that the holder, or a person acting on behalf of the holder, of a gear SFR is allowed to use.

13  Notice to owners of SFRs

Before the start of each fishing year, AFMA must give to each gear SFR owner a notice setting out:
(a) the TAE for the fishery for the fishing year; and
(b) the number of gear SFRs held by the owner; and
(c) in relation to each gear SFR held by the owner:
   (i) the number of standard squid jigging machines allocated to the SFR for the fishing year; and
   (ii) the name of the nominated boat for the SFR.
14 Non-standard machines

(1) The holder of a gear SFR or gear SFRs who intends to use a non-standard squid jigging machine in a fishing year may apply to AFMA for a decision about the number of those machines that are taken to be allocated to the gear SFR or gear SFRs for the fishing year.

Note: See section 15 for the number of squid jigging machines that the holder, or a person acting on behalf of the holder, of a gear SFR is allowed to use.

(2) The number of non-standard squid jigging machines of a particular type that are taken to be allocated to a gear SFR or gear SFRs for a fishing year must be worked out using the formula:

\[ \text{number of SFRs} \times \text{number of standard machines} \times CF \]

where:

- \textit{number of SFRs} is the number of gear SFRs held by the applicant.
- \textit{number of standard machines} is the number of standard squid jigging machines allocated, under section 12, to a gear SFR for the fishing year.
- \textit{CF} is the conversion factor for the type of non-standard machine, decided by AFMA in accordance with subsection (3).

(3) In deciding the conversion factor for a type of non-standard squid jigging machine, AFMA must take into account the efficiency of such a non-standard machine relative to the efficiency of a standard squid jigging machine.

(4) If an application is made under subsection (1), AFMA must give the applicant written notice of:

   (a) the number of non-standard squid jigging machines of that type that are taken to be allocated to the applicant’s gear SFR or gear SFRs for a fishing year; and
   
   (b) the conversion factor for the non-standard machine.

(5) An applicant may seek a review of a decision about the conversion factor for a type of non-standard squid jigging machine as if the decision were a relevant decision under section 165 of the Act.
Part 4  Right to fish in the fishery

15 Who may fish in the fishery

(1) Subject to section 17, a person may engage in squid jigging in the fishery only if the person:

(a) holds, or is acting on behalf of a person who holds, a gear SFR that has, or gear SFRs that have, been allocated at least 1 standard squid jigging machine; and

(b) uses no more than the allowed number of squid jigging machines; and

(c) uses the boat that is nominated for the SFR; and

(d) acts in accordance with the conditions of the SFR.

Note 1  Section 23 deals with the nomination of boats for gear SFRs.

Note 2  For the conditions to which an SFR is subject, see Part 6 of this Management Plan and subsections 22 (3), (4) and (5) of the Act.

(2) In paragraph (1) (b):

allowed number, for a person who holds, or is acting on behalf of a person who holds, a gear SFR or gear SFRs, means the number (rounded down, if not a whole number, to the nearest lower whole number) of:

(a) standard squid jigging machines allocated to the gear SFR or gear SFRs; or

(b) non-standard squid jigging machines that are taken to be allocated to the gear SFR or gear SFRs, as decided in accordance with section 14.

Example

If a person holds a gear SFR that has been allocated 5.5 standard squid jigging machines, the allowed number for the person is 5 standard squid jigging machines.

16 Number of machines carried by boat

(1) The number of squid jigging machines that are carried by a nominated boat on a trip must be no greater than the allowed number of squid jigging machines for the boat.

(2) In this section:

allowed number, for a nominated boat, means the number (rounded down, if not a whole number, to the nearest lower whole number) of:

(a) standard squid jigging machines allocated to the gear SFRs for which the boat is nominated; or

(b) non-standard squid jigging machines that are taken to be allocated to the gear SFRs for which the boat is nominated, as decided in accordance with section 14.
Example
If the total number of standard squid jigging machines allocated to the gear SFRs for which a boat is nominated is 5.5, the allowed number for the boat is 5 standard squid jigging machines.

17 Scientific research in the area of the fishery
A person may use a boat in the area of the fishery for scientific research using a squid jigging machine only if the person is, or is acting with the consent of and on behalf of, the holder of a scientific permit that authorises the use of the boat in the area of the fishery for that purpose.

Note  See section 33 of the Act about the grant of a scientific permit.

18 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.

Note  If AFMA gives a direction for a part of the fishery, the direction may identify the part in any way, including by reference to an area, a particular species or type of fish, a kind or quantity of fishing equipment, a method of fishing, or any combination of those ways — see subsection 17 (5B) of the Act.

(2) Before giving a direction, AFMA:
   (a) must consult, and consider the views of, SquidMAC; and
   (b) may consult, and consider the views of, any other interested person.

(3) At least 7 days before a direction takes effect, AFMA must give to each holder of a gear SFR or scientific permit for the fishery written notice of the direction.

(4) However, if a direction is given in an emergency:
   (a) subsections (2) and (3) do not apply; and
   (b) AFMA must, as soon as practicable, give to each holder of a gear SFR or scientific permit for the fishery written notice of the direction.

(5) The holder of a gear SFR or scientific permit must comply with a direction given under this section.

Note 1  The holder of a statutory fishing right must comply with obligations imposed by, or imposed by AFMA under, a relevant plan of management — see sections 22 and 95 of the Act.

Note 2  A direction under this section is a legislative instrument — see subsection 17 (6B) of the Act and paragraph 6 (d) of the Legislative Instruments Act 2003.
Part 5  Statutory fishing rights

Division 5.1  Registration of eligible persons for grant of SFRs

19  Registration of eligible persons for grant of SFRs

(1) A person is eligible for the grant of 1 or more gear SFRs if, on the relevant date, the person held a fishing permit for the fishery.

(2) For subsection (1), the relevant date means the date specified in a notice published in relation to gear SFRs under section 24 of the Act.

Note 1  Section 24 of the Act provides that AFMA may, by public notice, declare that it intends to grant statutory fishing rights in relation to fishing in a specified managed fishery.

Note 2  An application for registration as an eligible person for the grant of a statutory fishing right must be made within the period stated in a notice published under section 24 of the Act — see paragraph 25 (f) and subsection 26 (1) of the Act.

Note 3  Under subsection 26 (2) of the Act, AFMA must register as an eligible person an applicant for registration who meets the conditions for registration and who has paid the prescribed fee (if any). At present there is no prescribed fee.

Note 4  Section 165 of the Act provides that a person has a right of review in relation to a relevant decision, which includes a decision to register the person as eligible for the grant of a fishing right, or to grant or refuse to grant, a fishing right to the person. Application may be made to the Administrative Appeals Tribunal for review of a decision under that section — see subsection 165 (7).

Division 5.2  Availability and grant of SFRs

20  Availability of grants of SFRs (Act s 29 (3))

(1) If a person is registered as an eligible person for the grant of 1 or more gear SFRs, a grant of the number of gear SFRs calculated in accordance with this section is available to the person.

(2) The number of gear SFRs, for each fishing permit for the fishery held by the person, is:

\[
\frac{TAE}{\text{total number of permits}} \times 10
\]

where:

TAE is the TAE for the fishing year in which the gear SFRs will come into force.

total number of permits is the total number of fishing permits for the fishery that are held by eligible persons on the relevant date mentioned in section 19.
Note 1 See section 15 for the number of squid jiggling machines that the holder, or a person acting on behalf of the holder, of a gear SFR is allowed to use.

Note 2 If, under subsection 29 (4) of the Act, gear SFRs are made available to a person, AFMA must notify the person (and each other person who registered under section 26 of the Act) about that fact and give a statement of reasons.

Note 3 Section 30 of the Act provides that, within 30 days of statutory fishing rights becoming available to a person, the person must pay the amount of any charge due and payable under the Statutory Fishing Rights Charge Act 1991. For this Management Plan, there is no charge.

Note 4 AFMA must grant a statutory fishing right to a person to whom the grant of the right is available if the person asks AFMA to grant the right — see section 31 of the Act.

21 Request for grant

(1) If a person to whom grant of a gear SFR is available does not request the grant of the gear SFR within 30 days after AFMA sends a notice to the person under paragraph 29 (4) (a) of the Act, AFMA must send a notice (a reminder notice) to the person telling the person that the person must make the request within a period stated in the notice.

(2) If the person does not make the request within the period stated in the reminder notice, AFMA must send another notice (a final notice) to the person stating that the gear SFR will cease to be available to the person 14 days after the final notice is sent unless the person:

(a) makes the request; and
(b) explains why the person did not make the request within the period stated in the reminder notice.

(3) If, within 14 days after the final notice is sent to the person, the person does not:

(a) make the request; and
(b) satisfy AFMA that the person had a reasonable excuse for not making the request within the period stated in the reminder notice;

then:

(c) the grant ceases to be available to the person; and
(d) AFMA must amend its records accordingly.

Note Under subsection 23 (3) of the Act, AFMA must not grant a statutory fishing right to a person:

(a) before the end of the period within which applications may be made to the Statutory Fishing Rights Allocation Review Panel for review of decisions in relation to grants; or
(b) if an application has been made to the Panel — before the application has been dealt with by the Panel or otherwise disposed of.

22 Certificate showing grant (Act s 22 (2))

(1) AFMA must note the following details on the certificate for a gear 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;
(d) the conditions to which the SFR is subject.

(2) A certificate may show the grant of more than 1 gear SFR to a person.

(3) AFMA must give to a person to whom a gear 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.

   Note 1  A gear SFR ceases to have effect if AFMA revokes this Management Plan — see subsections 20 (4) and 22 (3) of the Act.

   Note 2  AFMA must register all gear SFRs granted — see section 45 of the Act.

   Note 3  Section 45 of the Act provides that AFMA must enter certain information in the Register for each statutory fishing right that it grants, including such particulars as are prescribed. The Fisheries Management (Southern Squid Jig Fishery) Regulations 2005 prescribe details that must be entered in the Register in relation to a nominated boat.

### Division 5.3 Nomination of boat

#### 23 Nomination of boat

(1) The holder of a gear SFR may apply to AFMA, in the approved form, for an Australian boat to be entered in the Register as the nominated boat for the SFR.

(2) A boat may be a nominated boat for only 1 holder at a particular time.

(3) If AFMA approves an application under subsection (1), AFMA must:
   (a) enter in the Register, in relation to the nominated boat, the details required by the Fisheries Management (Southern Squid Jig Fishery) Regulations 2005 to be entered in the Register; and
   (b) give to the holder an extract of the Register that:
      (i) states the conditions to which the gear SFR is subject; and
      (ii) states the name of the nominated boat; and
      (iii) is signed for AFMA by a person having authority to sign it.

(4) An applicant may seek a review of a decision not to enter a boat in the Register as the nominated boat for a gear SFR, as if the decision were a relevant decision under section 165 of the Act.

#### 24 Request to cancel boat nomination

(1) The holder of a gear SFR for which a boat is the nominated boat may apply in writing to AFMA, in the approved form, to cancel the nomination.

(2) On receiving the application, AFMA must cancel the nomination.
25 Removal of boat from Register

(1) This section applies to a nominated boat in relation to which AFMA has made a request under subsection 31 (1) or (2).

(2) AFMA may remove the name of the nominated boat from the Register if:
   (a) the holder of the gear SFR for which the boat is nominated does not comply with the request; or
   (b) a statement of a kind mentioned in paragraph 31 (1) (b) is given to AFMA.

(3) The holder of the gear SFR for which the boat is nominated 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.

Note Subsections 31 (1) and (2) deal with the obligations of the holder of a gear SFR in relation to the carrying of an observer on a nominated boat.

Division 5.4 Transfer and lease of SFRs

26 Meaning of transfer

In this Division:

transfer does not include lease.

27 Transfer of SFRs (Act s 49)

(1) The owner of a gear SFR (the transferor) may apply to AFMA, in the approved form, for approval to transfer the SFR to another person (the transferee).

(2) For subsection (1), an application must be accompanied by:
   (a) the certificate for the gear SFR; or
   (b) a statement, signed by the transferor, that the certificate is not available, including the reason why the certificate is not available.

(3) AFMA must not approve the transfer of a gear SFR:
   (a) if the SFR has been leased to another person and the lease is still in effect; or
   (b) if a proceeding for an offence under the Act, or regulations made under the Act, has begun against the transferor and has not been decided; or
   (c) if an application for registration of another interest in the SFR has been received by AFMA before the application for transfer is received, and has not been dealt with; or
   (d) if the SFR has been suspended under subsection 38 (1) or (3), or paragraph 98 (3) (d), of the Act; or
   (e) if, under section 98 of the Act, a court has ordered the transferor not to be on a boat in the AFZ for the purposes of engaging in commercial fishing; or

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(f) if AFMA:
   (i) knows of a ground for suspension of the SFR under subsection 38 (1) or (3) of the Act or cancellation of the SFR under section 39 of the Act; and
   (ii) has not decided whether to suspend or cancel the SFR; or

g) if AFMA has decided to suspend or cancel the SFR, and:
   (i) the period in which an application for review of that decision may be made has not ended; or
   (ii) an application has been made for review of that decision, and the application has not been decided; or

(h) within the period beginning 14 days before the issue of a levy invoice for the SFR and ending when the levy is paid.

Note 1 AFMA may decline to approve the transfer of a statutory fishing right only if the transfer would be contrary to this Management Plan or a condition of the right — see subsection 49 (2) of the Act.

Note 2 A decision under section 49 of the Act is subject to reconsideration under section 165 of the Act — see subsection 165 (2) of the Act. Application may be made to the Administrative Appeals Tribunal for review of a decision under section 165 of the Act — see subsection 165 (7) of the Act.

Note 3 The right to transfer a statutory fishing right is subject to a condition stated in the certificate for the right — see paragraph 22 (4) (a) of the Act.

28 Replacement of certificates if SFRs are transferred

If AFMA approves the transfer of a gear SFR, AFMA must:

(a) if the transferor does not transfer all the rights shown on the certificate showing the grant of the SFR — cancel the certificate and issue to the transferor a new certificate showing each right owned by the transferor after the transfer; and

(b) either:
   (i) if the transferee has lodged with AFMA a certificate showing the grant of the SFR — cancel the certificate and issue to the transferee a new certificate showing each right owned by the transferee after the transfer; or
   (ii) in any other case — issue to the transferee a certificate showing that the transferee is the owner of the transferred right.

Note See section 46 of the Act about the requirement to register the transfer of an interest in a statutory fishing right.

29 Leases of SFRs

(1) If, in a fishing year, the holder of a gear SFR leases the right to another person, the holder must give AFMA written notice about the lease, in the approved form.
(2) A lease of a gear SFR has effect, for this Management Plan:
   (a) only if all levy payable for the SFR has been paid; and
   (b) only for:
       (i) the fishing year in which the lease is granted; or
       (ii) if a shorter period is mentioned in the instrument of lease — that period.

*Note* See section 46 of the Act about the requirement to register a dealing with a statutory fishing right.
30 General obligations

It is a condition of a gear SFR that the holder must:

(a) comply with this Management Plan; and
(b) comply with any direction made under subsection 18 (1); and
(c) if AFMA asks the holder to give AFMA biological, economic or technical information, or biological samples that are available to the holder — give AFMA the information and samples; and
(d) carry on board the nominated boat for the SFR a copy of the extract from the Register mentioned in subsection 23 (3).

Note 1 Other conditions of a gear SFR are set out in the certificate for the SFR.

Note 2 The holder of a gear SFR must also comply with the Act and with any regulations applying to the fishery, including the Fisheries Management Regulations 1992, the Fisheries Management (Southern Squid Jig Fishery) Regulations 2005, and the annual levy Regulations.

Note 3 See subsections 22 (3), (4) and (5) of the Act for other conditions to which a statutory fishing right is subject.

Note 4 See section 38 of the Act about AFMA’s power to suspend a statutory fishing right if it has reasonable grounds to believe that there has been a contravention of a condition of the right.

31 Obligations relating to carrying observers

(1) It is a condition of a gear SFR that, if asked to do so by AFMA in relation to a nominated boat for the SFR, the holder must give to AFMA:

(a) both of the following documents:

(i) a statement by the holder, in an approved form, that the boat can safely and lawfully carry an observer and the observers’ safety and monitoring equipment;

(ii) a written undertaking by the holder, in an approved form, to carry an observer and the observer’s safety and monitoring equipment if AFMA asks the holder to do so; or

(b) a written statement by the holder explaining why it is not safe to carry an observer and the observer’s safety and monitoring equipment on the boat.

(2) It is a condition of a gear SFR that, if documents of a kind mentioned in paragraph (1) (a) are given to AFMA in relation to a nominated boat for the SFR, the holder must carry on board the boat an observer and the observer’s safety and monitoring equipment, if AFMA asks the holder to do so.
32 Obligations relating to interactions with certain species and marine communities

(1) The holder of a gear SFR 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 avoid interactions with the following:
   (a) cetaceans (within the meaning given by the EPBC Act);
   (b) marine species listed for section 248 of that Act;
   (c) migratory species listed for section 209 of that Act;
   (d) threatened ecological communities listed for section 181 of that Act;
   (e) threatened species listed for section 178 of that Act.

(3) If the activities of the nominated boat for a gear 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 consequences; 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 7  Miscellaneous

33  Certificates
Before a certificate issued by AFMA for a gear SFR is amended or a replacement certificate is issued:
(a) the certificate to be amended or replaced must be surrendered to AFMA; or
(b) if the certificate has been given to AFMA under subsection 27 (2) — a statement to that effect must be made to AFMA; or
(c) if the certificate is not available — the owner of the SFR must give to AFMA a written reason why the certificate is unavailable and an undertaking, signed by the owner, to the effect that the owner will surrender the certificate to AFMA if it becomes available.

34  Delegation
AFMA may, by writing under its common seal, delegate to an officer of AFMA any of its powers or functions under this Management Plan, except its powers under sections 11 and 18 and this section.

Note  See subsection 17 (11) of the Act about the delegation of powers under sections 11 and 18.

35  Agents
(1) If the holder of a gear 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 written notice that states:
(a) the name of the agent; and
(b) the powers that may be exercised by the agent.

(2) A notice must be accompanied by the instrument, or a certified copy of the instrument, by which the holder appointed the agent.

(3) For this Management Plan, the appointment of an agent by the holder of a gear SFR 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 is properly given; and
(b) AFMA need not verify, by other means, the authority of the agent to make the application.
36 Notices

(1) In this section:

residential, office, postal or e-mail address, or fax number, for the holder of a gear SFR, means the holder’s residential, office, postal or e-mail address, or fax number, stated in the Register.

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 a Sunday; or

(b) a public holiday in the place.

(2) A notice to the holder of a gear SFR 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 e-mail to the holder’s e-mail address.

(3) 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 3
   John Curtin House
   22 Brisbane Avenue
   BARTON ACT 2600; or

(b) posted to:

   Box 7051
   Canberra Business Centre
   ACT 2610; or

(c) sent by fax (from within Australia) to:

   (02) 6272 5426; or

(d) sent by fax (from outside Australia) to:

   612 6272 5426; or

(e) sent by e-mail to:

   licensing@afma.gov.au; or

(f) delivered, posted or sent by fax or e-mail to another office address, postal address, fax number or e-mail address notified by AFMA by notice published in the Gazette and a newspaper circulating in the State or Territory in which the address or fax receiver is located.
(4) A notice given to the holder of a gear SFR, or to AFMA, under this section is taken to have been given to the holder, or AFMA:
(a) for a notice delivered to a residential or office address — on the day when the notice is delivered; and
(b) for a notice that is sent by fax or e-mail:
   (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.

Note Under subsection 160 (1) of the Evidence Act 1995, it is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) that a postal article sent by pre-paid post addressed to a person at a specified address in Australia or in an external Territory was received at that address on the fourth working day after it was posted.
37  Transitional

(1) This section ceases to have effect on the day specified in the notice published in the Gazette under subsection (2).

(2) As soon as practicable after the first gear SFRs granted under this Management Plan come into effect, AFMA must publish a notice in the Gazette stating that this section ceases to have effect on a day specified in the notice.

(3) The day specified in a notice under subsection (2) must not be earlier than the day on which the notice is published.

(4) Despite section 15 a person may engage in squid jigging in the fishery if:
   (a) the person holds a fishing permit for the fishery; and
   (b) the permit is in force.

(5) This Management Plan does not affect a fishing permit for the fishery, or a condition to which the permit is subject.

(6) This Management Plan does not prevent AFMA from granting or transferring a fishing permit for the fishery.
Schedule 1  Area of the fishery

(Section 3)

The part of the AFZ that is:

(a) off the coast of Queensland, south of the parallel of latitude 24° 30' S and east of a line joining the following points:

- latitude 24° 30' S, longitude 154° 40' E;
- latitude 27° 47' 25.29" S, longitude 154° 40' E;
- latitude 27° 48' S, longitude 154° 22' E;
- latitude 27° 58' S, longitude 154° 00' E;
- the intersection of the eastern shore of Australia with the parallel of latitude 28° 10' S; and

(b) adjacent to New South Wales, Victoria, South Australia and Tasmania, excluding coastal waters.