South-east Marine Reserves Network Management Plan 2013

Section 5.2.7

 **CLASS APPROVAL – COMMERCIAL FISHING**

**[EXAMPLE FOR CONSULTATION – 2023]**

**Note: this class approval is provided as an example of VMS clauses only (see clauses 6-9). The VMS requirement will not be implemented before 2024.**

**The current class approvals for the South-east Network Management Plan will expire on 30 June 2023. Parks Australia expects to prepare an interim Class Approval to provide for the continuation of allowed activities prior to the new management plan. The interim Class Approval will not require VMS.**

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| **Approved Persons** | Persons authorised to take Approved Actions in accordance with a fishing concession or licence under the *Fisheries Management Act 1991* or state fisheries legislation, including employees, servants, agents and contractors of the relevant concession or licence holder.  |
| **Approved Actions** | Commercial fishing activities within the South-east Marine Parks Network using Approved Fishing Methods within Approved Zones, by Approved Persons, in accordance with the Conditions of Approval. |
| **Approved Fishing Methods within Approved Zones** | * **Demersal longline** in Habitat Protection Zones and Multiple Use Zones (Except in Huon Marine Park Habitat Protection Zone).
* **Demersal (bottom) gillnet** above depths of 183m in Habitat Protection Zones and Multiple Use Zones (Except in Huon Marine Park Habitat Protection Zone)
* **Dropline and trotline** in Habitat Protection Zones and Multiple Use Zones (Except in Huon Marine Park Habitat Protection zone)
* **Drop nets** in Habitat Protection Zones and Multiple Use Zones.
* **Hand collection** using hookah or SCUBA gear in Habitat Protection Zones and Multiple Use Zones.
* **Giant crab traps** in Habitat Protection Zones and Multiple Use Zones (Except in Huon Marine Park Habitat Protection Zone).
* **Handline** in Habitat Protection Zones and Multiple Use Zones.
* **Hoop nets** in Habitat Protection Zones and Multiple Use Zones.
* **Lift net** in Habitat Protection Zones and Multiple Use Zones.
* **Lobster pots** in Habitat Protection Zones and Multiple Use Zones (Except in Huon Marine Park Habitat Protection Zone).
* **Pelagic longline** in Habitat Protection Zones and Multiple Use Zones (Except in Macquarie Island Marine Park Habitat Protection Zone).
* **Poling** in Habitat Protection Zones and Multiple Use Zones (Except in Macquarie Island Marine Park Habitat Protection zone)
* **Purse seine** in Habitat Protection Zones and Multiple Use Zones.
* **Rod and reel** in Habitat Protection Zones and Multiple Use Zones.
* **Squid jig** in Habitat Protection Zones and Multiple Use zones.
* **Traps** in Habitat Protection Zones and Multiple Use zones (Except in Huon Marine Park Habitat Protection Zone).
* **Trawl (midwater)** in Habitat Protection Zones and Multiple Use zones.
* **Trolling** in Habitat Protection Zones and Multiple Use zones (Except in the Macquarie Island Marine Park Habitat Protection Zone).
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| **Excluded Fishing Methods** | * **Danish seine**
* **Demersal (bottom) trawl**
* **Scallop dredge**
* **Any Fishing Method below depths of 500m in the Huon Marine Park Habitat Protection Zone.**
* Any Fishing method not included in the Approved Fishing Methods is excluded from this Class approval.
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| **Conditions of Approval** | 1. The Approved Actionsmust be conducted in accordance with:
2. the EPBC Act 1999;
3. the EPBC Regulations 2000;
4. the South - East Network Management Plan;
5. any prohibitions, restrictions or determinations made under the EPBC Regulations by the Director of National Parks;
6. *Fisheries Management Act 1991* and/or state fisheries legislation (to the extent those laws are capable of operating concurrently with the laws and instruments described in paragraphs (a) to (d)) including fishery management plans and the requirements of individual fishing concessions or licences; and
7. all other applicable Commonwealth and state laws (to the extent those laws are capable of operating concurrently with the laws and instruments described in paragraphs (a) to (e)).
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| 2. All employees, servants, agents and contractors having operational control of a vessel in the conduct of the Approved Actions must be informed of these Conditions of Approval before taking part in the Approved Actions. |
| 3. A copy of this Class Approval (hard or electronic copy) must be kept on board each vessel used in the conduct of the Approved Actions and must be produced for inspection on request by an Authorised Officer. |
| 4. A navigational chart showing the boundaries of the Approved Zones in which the Approved Actions are being conducted, must be kept or be otherwise accessible on board the vessel. |
| 5. On request of the Director of National Parks, an Approved Person must make available, within 21 days of receipt of that request, information regarding:1. the total number of days in which the Approved Actions were conducted during a specified period in each Marine Park and zone; and
2. the species caught and the total quantity of each species caught during a specified period in each Marine Park and zone.

***Note:*** *This condition will be satisfied where existing catch log and fishing effort information is available to the Director of National Parks from the Australian Fisheries Management Authority or state fisheries agencies.*  |
| 6.  An Approved Person must ensure that an Approved Vessel Monitoring System (VMS) is fitted and operating effectively in a manner approved by the Director of National Parks at all times.***Note*:** *This condition is satisfied where a VMS is fitted and operating in accordance with the Australian Fisheries Management Authority or the relevant state Fisheries Management Agency’s requirements. In the circumstance where a state Fisheries Management Agency does not have VMS requirements, the Australian Fisheries Management Authority standards and requirements are adopted by the Director.****Reason: [Note, this section is provided for clarity during consultation and will not be included in the final class approval]****An approved VMS unit provides assurance the vessel’s data is capable of being hosted by the VMS management software, Ensuring the VMS unit is fitted according to standards and operating effectively is essential for accurate position information and tracking.* |
| 7. If the Vessel Monitoring System unit stops operating or malfunctions in the Network, the Approved Person must stop fishing immediately, stow and secure fishing gear, and ensure that the Director of National Parks is informed as soon as possible after the Approved Person becomes aware that the Vessel Monitoring System has stopped operating.***Note:*** *There is no requirement to notify the Director of National Parks where the Director has entered into an agreement with the Australian Fisheries Management Authority or relevant state Fisheries Management Agency agencies for sharing VMS data. Where manual reporting has been approved (Condition 8 below), the vessel may continue fishing. If manual reporting has not been approved the vessel must leave the Network directly.****Reason: [Note, this section is provided for clarity during consultation and will not be included in the final class approval]****If a VMS stops operating effectively, Condition 6 is not met, meaning approval is not granted to be in the Network under this class approval. Notification is required to avoid potential enforcement action. This Condition makes it clear that fishing must stop immediately, with all fishing gear stowed, unless Condition 8 applies* |
| 8. If a Vessel Monitoring System unit stops operating or malfunctions in the Network, the Director of National Parks may authorise the Approved Person to manually report the vessel’s position, course and speed at periods as deemed appropriate. Where an Approved Person has been authorised to manual report, the vessel can continue fishing in the Network, subject this Class Approval.***Note****:* *This condition is met where the Australian Fisheries Management Authority or the relevant state Fisheries Management Agency has approved manual reporting. The Director of National Parks will not authorise manual reporting if a request has been denied by the Australian Fisheries Management Authority or a state Fisheries Management Agency.* *Where a state Fisheries Management Agency does not have applicable manual reporting requirements, an Approved Person must contact the Director of National Parks for authorisation. The Director of National Parks will apply the Australian Fisheries Management Authority guidelines in allowing manual reporting.****Reason: [Note, this section is provided for clarity during consultation and will not be included in the final class approval]****It is acknowledged that a VMS unit can malfunction whilst at sea. The Australian Fisheries Management Authority and state Fisheries Management Agencies may allow for manual reporting and fishing to continue in certain cases, subject to application by the Approved Person and authorisation.* |
| 9. An Approved Person must provide access to and make available Vessel Monitoring System data whilst in the Network to the Director of National Parks.***Note:*** *An Approved Person consents to provide VMS data by entering the Network. This condition is satisfied if VMS data is available in ‘real-time’ to the Director of National Parks from the Australian Fisheries Management Authority or relevant state Fisheries Management Agency. Where VMS data is not available through a state Fisheries Management Agency, a signed vessel tracking authorisation is required by the Director of National Parks before entering the Network.****Reason: [Note, this section is provided for clarity during consultation and will not be included in the final class approval]****The purpose of VMS is to accurately track all commercial fishing vessels in the Network to ensure compliance with marine park rules and ensure the Director of National Parks fulfils its statutory obligations. Vessel tracking authorisation is the mechanism to ensure VMS data is available to the Director of National Parks.* |
| 10. All gear and/or equipment lost in the Network must be reported to the Director of National Parks within 24 hours after the loss occurs. The report must include approximate location, time and description of what was lost. |

**Commercial fishers in the Network need to be aware of the following South-East Network Management Plan and Director Determination requirements:**

1. Anchoring is allowed in all zones except National Park Zones.
2. Transiting is allowed in all zones

2A. Transiting vessels must have Vessel Monitoring Systems installed and effectively operating. Vessel Monitoring System data must also be available to the Director of National Parks, consistent with the Conditions of Approval, 6 to 9 above (by determination made by the Director of National Parks).

***Reason: [Note, this section is provided for clarity during consultation and will not be included in the final class approval]***

*Marine parks apply zoning to manage different uses. Some zones allow for fishing, while others do not. The Director of National Parks must know that transiting vessels are not fishing in places they are not approved to do. The South-east Network Management Plan and Director Determinations have specific transiting requirements for commercial fishing vessels (Requirements 1,2,3 and 4), including speed, gear stowage and anchoring. Access to real-time VMS data ensures compliance with these rules and supports enforcement.*

1. Vessels transiting National Park Zones must travel at a speed greater than 5 knots (by Determination made by the Director of National Parks).
2. Fishing gear must be kept stowed and secured at all times during transit through, or while stopping and anchoring in, a zone in which the fishing method is not an Approved Fishing Method for that zone (Section 5.5.7 of the South-east Network Management Plan).
3. Transit by commercial fishing vessels engaged in cage towing through Multiple Use, Special Purpose and Habitat Protection zones must be notified to the Director of National Parks at least 24 hours in advance of the proposed transit using the contact details stated following these conditions and providing the marine park(s) in which transit will occur, the date on which transit will occur and the expected transit time; and with all fishing gear kept stowed and secured.

***Note:*** *Transiting by commercial fishing* vessels *engaged in cage towing through Sanctuary and Marine National Park zones is prohibited under a Determination issued by the Director of National Parks.*

1. Fish may only be processed or transhipped within zones in which the fishing method for the taking of that fish is authorised by this Class Approval, unless alternative arrangements are individually authorised by the Director of National Parks (by Determination made by the Director of National Parks).

The Director of National Parks may vary, suspend or cancel this Class Approval at any time, in accordance with Section 4.4.2 of the South-East Network Management Plan.

Contravention of this Class Approval may result in the imposition of civil or criminal penalties, and/or the removal of a person or persons from this Approval.

Incidents should be reported immediately to the **24-hour Marine Compliance Duty Officer on 0419 293 465**. For all other enquiries relating to this Class Approval, please contact: marineparks@environment.gov.au

*This Class Approval will come into effect on XX XX XXXX and remain in effect for the term of the South-East Marine Parks Network Management Plan, unless suspended or cancelled sooner by the Director of National Parks.*

***Interpretation***

In the approval and these conditions:

1. **Approved Actions** means the actions described as Approved Actions in this Class Approval.
2. **Approved Fishing methods:**

**Cage towing** means a vessel towing a cage that is suitable for caging fish.

***Danish Seine*** meansa net connected to two long, weighted ropes on either side used to surround fish. An anchor buoy is deployed first to hold the line in place while the net and remaining line is paid out in a circular pattern around the target area. The boat then either steams slowly away or remains stationary while the net is hauled on board.

***Demersal (bottom) git/net*** (also known mesh nets) means using a net held vertically in the water column and anchored to the seabed designed to entangle fish species.

***Dropline*** *and means a line that is vertically set or suspended in the water column between a weight (normally in contact with the seabed) and a vessel or a buoy on the water surface. Baited hooks are attached to the mainline via smaller lines (branch-lines or snoods).*

***Drop net and hoop net*** means using one or more rigid rings with net fitted to form a cylindrical bag or cone used for catching crustacean species

***Giant Crab Trap*** *means* a *trap* a *basket* or other device that is designed for use, or is capable of being used, for or in connection with the taking of Giant Crab.

***Hand collection using Hookah or SCUBA*** means using a hose delivering air to a diver from a surface-mounted compressor or the use of Self Contained Underwater Breathing Apparatus for the collection of Abalone, Sea urchin or Crustacean species.

***Handline*** means using a handheld reel to which is attached a fishing line and has fishing hooks attached to it which is set and retrieved manually.

***Lift net*** a using a net alongside of a vessel in conjunction with lights to attract bait fish into the nets before the net is lifted onto the vessel.

***Longline (demersal, auto longline)*** means a line that is horizontally set along the seafloor between weights to maintain contact with the seafloor. The main line has a vertical line attached at each end which is connected to buoys on the water surface. Baited hooks are attached to the main line via smaller lines (branch-lines or snoods). An auto-longline is a longline where the hooks are baited by a machine rather than manually.

***Lobster pots*** means using a basket, trap, cage or other device that is designed for use, or is capable of being used, for or in connection with the taking of rock lobster and/or giant crab.

***Pelagic longline*** means using a line and baited hooks, near the surface of the water generally horizontal and is unanchored.

***Purse seine*** means a semi-rectangular mesh net with floats along the top and a weighted line along the bottom. A vessel or buoy is used to anchor one end of the net while it is set around a fish aggregation in a circular pattern. The bottom of the net has a cable threaded through it which, when pulled, brings the bottom of the net together like a purse trapping the fish inside. The net is then pulled toward the vessel and the fish are either lifted or pumped on board the vessel.

***Poling*** means using bait or lures attached to lines on the end of poles, which are lowered into a feeding school of fish and the hooked fish are then lifted into the boat.

***Rod and Reel*** means using a rod to which is attached a fishing line and has fishing hooks attached to it

***Scallop Dredge*** means using a net consisting of mesh supported by a framework that is designed and constructed to be towed along the seabed for the taking of fish species.

***Squid Jig*** means using uses barbless lures on fishing lines designed to catch cephalopod species.

***Trap, pot(s****)* are made in a variety of shapes and sizes from various materials. They are generally baited to attract fish or crustaceans through one or more entrances or openings. Traps and pots are set on the seafloor and connected to a vertical line with a buoy on the surface of the water.

***Trawl Demersal*** means a cone-shaped mesh net towed through the water column on or near the seabed that may come into contact with the seabed during use. The net is held open horizontally by otter boards or trawl doors while towing. The bottom of the net opening generally has chains, rubber or steel bobbins, and spacers threaded along its length to help reduce snagging by slightly lifting the net off the seafloor. The last section of the net is a cod end where the catch is retained. Long metal cables connect the net and boards to a vessel. The cable length and mesh size vary depending on the species being targeted (fish or prawns). These nets can be towed by one vessel in various configurations, such as one or four nets.

***Trawl Midwater*** means a cone-shaped mesh net towed through the water column that does not come into contact with the seabed at any stage during use. The net is held open horizontally by otter boards or trawl doors while towing. The bottom of the net opening is weighted. The last section of the net is a cod end where the catch is retained. Long metal cables connect the net and boards to a vessel. The cable length and mesh size vary depending on the species being targeted (fish or prawns). These nets can be towed by one vessel in various configurations, such as one or four nets. Note: for the purpose of this Class Approval, if the fishing gear contacts the seabed at any stage, the method will be deemed to be Trawl (demersal).

***Trolling*** means using a line to tow lures or baited hooks behind a vessel to target pelagic fish.

1. **Approved Person** means a person in the class of persons described as Approved Persons in this Class Approval.
2. **Approved Zones** means a Zone in which the Approved Actions are authorised by this Class Approval to be carried out.
3. **Authorised Officer** means a warden or an inspector under the Act.
4. **Director of National Parks** means Director of National Parks continuing under section 514A of the EPBC Actand includes any agency that succeeds to the functions of the Director of National Parks.
5. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* and includes any Act which amends or replaces the EPBC Act.
6. **EPBC Regulations** mean the *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth) and include any Regulations that amend or replace the EPBC Regulations.
7. **Fishing** has the meaning given to that term in section 528 of the EPBC Act, being the same meaning as in the *Fisheries Management Act 1991*.
8. **Fishing concession or licence** means a Statutory Fishing Right, licence, Individual Transferable Quota, permit or other approval issued, under Commonwealth or state fisheries legislation, to a person allowing participation in a commercial fishery.
9. **South-east Network of Marine Parks** or means, collectively, the following marine parks declared under the EPBC Act and named Apollo, Beagle, Boags East Gippsland, Flinders, Franklin, Freycinet, Huon, Macquarie Island, Murray, Nelson, South Tasman Rise, Tasman Fracture and Zeehan Marine Parks.
10. **South-east Commonwealth Marine Reserves Network Management Plan** (or **Network Management Plan)** means the management plan for the Network of Marine Parks in operation under the Act.
11. **Speed** means the rate of travel of the vessel calculated in knots by (a) for each consecutive pair of points identified by the boat’s vessel monitoring system, identifying the shortest distance between the pair of points in a straight line; and (b) divide the distance by the time taken by the boat to travel between the two points.
12. **Stowed and Secured** means that all fishing apparatus, including nets and lines, are rendered inoperative in zones where fishing is not authorised, including that the apparatus is inboard the vessel and otherwise completely out of the water or as determined by the Director of National Parks.
13. **Transit or Transiting** means the continuous and expeditious passage through an area. However, passage includes stopping and anchoring, but only in so far as rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.
14. **Vessel** means a ship, boat, raft or pontoon or any other thing capable of carrying persons or goods through or on water and includes a floating structure and hovercraft.
15. **Vessel Monitoring System** **(VMS)** means a system in which boats are fitted with an electronic device that can give information about the boats’ course or position, or other such information, being the same meaning as 167B(4) of the *Fisheries Management Act 1991*.

A ***VMS unit***, also known as an automatic location communicator, is capable of transmitting information via a satellite communication system.

An ***Approved VMS*** means a VMS unit in a class approved under s.9 of Part 1 of the *Fisheries Management Regulations 2019* or as approved by relevant state Fisheries Management Agencies.

***Operating effectively***, in relation to an Approved VMS, means sending a signal that is in a format that has been approved by AFMA or the relevant state Fisheries Management Agencies and accurately identifies the location of the boat to which the VMS is fitted.

***VMS data*** means any data (whether or not that data is also personal information, within the meaning of the *Privacy Act 1988)* that is, or was generated by, or transmitted by, or stored by the VMS equipment installed in compliance with a condition imposed under this class approval.

***Reason: [Note, this section is provided for clarity during consultation and will not be included in the final class approval]***

*Primary guidance to the Director of National Parks for VMS installation and operation is provided by AFMA. To ensure consistency with both Fisheries and VMS regulatory controls and to support this partnership arrangement, VMS nomenclature described by Commonwealth Fisheries Management legislation has been adopted by the Director of National Parks.*

1. **Zone** means a management zone established by the South-east Commonwealth Marine Reserves Network Management Plan.