



Australian Government
Director of National Parks

Environment Protection and Biodiversity Conservation Act 1999

Section 359B

APPROVAL OF COMMERCIAL FISHING IN A SOUTH-EAST COMMONWEALTH MARINE RESERVE

Approved area/s	<ul style="list-style-type: none">■ Apollo Commonwealth Marine Reserve■ Beagle Commonwealth Marine Reserve■ Boags Commonwealth Marine Reserve■ East Gippsland Commonwealth Marine Reserve■ Flinders Commonwealth Marine Reserve■ Franklin Commonwealth Marine Reserve■ Freycinet Commonwealth Marine Reserve■ Huon Commonwealth Marine Reserve■ Murray Commonwealth Marine Reserve■ Nelson Commonwealth Marine Reserve■ South Tasman Rise Commonwealth Marine Reserve■ Tasman Fracture Commonwealth Marine Reserve■ Zeehan Commonwealth Marine Reserve
Approved person/s	Persons who: (a) hold a fishing concession issued under the <i>Fisheries Management Act 1991</i> or applicable state fisheries legislation authorising the operations in the area of any of the South-east Commonwealth Marine Reserves (SE CMR); and (b) are registered with the Department of the Environment and Water Resources (the Department) to carry on the approved activity under this approval.
Approved action/s	Commercial fishing operations and transit for commercial fishing vessels.
Conditions of approval	As specified overleaf.

Failure to adhere to the conditions of approval may result in variation or revocation of this approval.

This approval remains in effect until a management plan comes into operation for the South-east Commonwealth Marine Reserve Network, unless it is revoked sooner.

Assistant Secretary

Marine Conservation Branch

Department of the Environment and Water Resources

Delegate of the Director of National Parks



CONDITIONS OF APPROVAL
COMMERCIAL FISHING OPERATIONS
SOUTH-EAST COMMONWEALTH MARINE RESERVE NETWORK

Interpretation

In these conditions, unless the contrary intention appears:

Act means the *Environment Protection and Biodiversity Conservation Act 1999*, and includes any Act which amends or replaces the Act.

Approval holder means the person or persons (individuals and companies) specified as an approved person in the approval, and, where applicable, includes staff of the approved person.

Approved activity means the activity or activities authorised by this approval.

CMR means Commonwealth Marine Reserve, an area of sea established as a Commonwealth reserve under the Act.

The Department means the Department of the Environment and Water Resources.

Nominated vessel means the vessel or vessels nominated by the holder of this approval to be used in the conduct of the approved activity.

Regulations means the *Environment Protection and Biodiversity Conservation Regulations 2000* and includes any Regulations that amend or replace the Regulations.

Reserve Network means all the reserves listed as approved areas of the South-east Commonwealth Marine Region including Apollo CMR, Beagle CMR, Boags CMR, East Gippsland CMR, Flinders CMR, Franklin CMR, Freycinet CMR, Huon CMR, Murray CMR, Nelson CMR, South Tasman Rise CMR, Tasman Fracture CMR and Zeehan CMR for the purposes of this approval).

South-east Commonwealth Marine Reserve Network means all the reserves listed as approved areas of the South-east Marine Region including Apollo CMR, Beagle CMR, Boags CMR, East Gippsland CMR, Flinders CMR, Franklin CMR, Freycinet CMR, Huon CMR, Murray CMR, Nelson CMR, South Tasman Rise CMR, Tasman Fracture CMR and Zeehan CMR for the purposes of this approval.

Stowed and secured means out of the water and onboard the nominated vessel.

Transit means passage of a vessel through a Reserve Network without any other activity being carried on in the reserve.

Vessel Monitoring System (VMS) means a device fitted to vessels designed to transmit spatial data to a centralised receiving station, and consists of an Automatic Location Communicator (ALC) that transmits information, such as location, time and course via satellite or other communication network.

1. The approval cannot be transferred to another person, body or organisation.
2. The following fishing methods must not be used:
 - a. Demersal trawl;
 - b. Danish seine;
 - c. Scallop dredge; and
 - d. Gillnet in water greater than 183 metres deep.

3. Commercial fishing operations must not be conducted in the following zones of a Reserve Network:
 - a. Sanctuary Zone (IUCN Ia);
 - b. Benthic Sanctuary Zone below 500 metres water depth (IUCN Ia – no commercial fishing below 500m water depth)
 - c. Special Purpose Zone (IUCN VI); and
 - d. Recreational Use Zone (IUCN II).
4. Approved activity operations must be conducted in accordance with all applicable Commonwealth and State laws.
5. The approval holder must notify the Department of any changes to the information provided to the Department when registering for approval to conduct the operations in the Reserve Network (e.g. nominated vessel, fishing method employed) within 14 days of this change becoming known.
6. All staff, contractors, sub-contractors of the approval holder involved in the conduct of the approved activity must be fully informed of these Conditions before commencing to take part in the activity.
7. A copy of the approval and these Conditions must be kept on board each nominated vessel and must be produced for inspection on request by an authorised officer.
8. Vessels transiting through a zone specified in condition 3 in which fishing must not be conducted or a vessel equipped with fishing equipment specified in Condition 2 travelling through any Reserve must:
 - a. have all fishing equipment appropriately stowed and secured at all times;
 - b. take the most direct route to their intended destination through the zone; and
 - c. travel at a minimum speed of at least five knots at all times whilst in the reserve.
9. It is an exception to paragraphs (b) and (c) of Condition 8 if:
 - a. it is reasonably necessary to do so in order deal with an emergency involving a serious threat to human life or property (including a danger to navigation or a failure, malfunction or defect that caused, or is likely to cause serious damage to the vessel or that interferes with, or is likely to interfere with, the normal control of the vessel); or
 - b. it occurs because of an unavoidable accident, other than an accident caused by negligent or reckless behaviour.
10. If an event described in condition 9 occurs the approval holder must take all reasonable steps to notify the Department within 14 days after becoming aware the event has occurred.
11. For Reserve monitoring purposes the approval holder must for each CMR make available information regarding the total number of days on which fishing was conducted, species caught and total quantity of each species caught that was kept while conducting commercial fishing activities in the Reserve Network.

Note: This Condition (11) will be satisfied where the information is available from the Australian Fisheries Management Authority (AFMA) or state fisheries agency, e.g. following consent provided by the approval holder when registering for approval.

12. For Reserve compliance purposes, in relation to operations conducted in fisheries managed by the Australian Fisheries Management Authority, and those conducted in state managed fisheries in which it is required to have a Vessel Monitoring System, the approval holder must make available as and when required information regarding the course, speed or position of vessels used in connection with the conduct of the approval holder's operations in or in relation to the Reserve Network.

Note:

a. This condition (12) will be satisfied where the information is available from the Australian Fisheries Management Authority or state fisheries agency, e.g. following consent provided by the approval holder when registering for approval.

b. This information will only be accessed where there are reasonable grounds to suspect that a breach of the Act or the Regulations has occurred or where it is deemed necessary by the Department to monitor the use of a CMR to determine zoning compliance.

c. This information will be collected and used in accordance with any Memorandum of Understanding negotiated between the Department and AFMA or the state fisheries agencies.

13. The approval holder must report all gear, equipment and other articles lost during the operations in the Reserve Network that is likely to cause significant environmental harm, as soon as possible, and within 10 days in any event, after the loss occurs. The report must include a description of what was lost, the location at which they were lost or believed to have been lost and the date and time at which they were lost.