

# RecFish SA

## Website & Social Media Terms of Use

### Application of Terms

These Terms of Use comprise a legal agreement between you (**You**) and the South Australian Recreational Fishing Advisory Council Incorporated (**RecFish SA**) in relation to your access to and use of the RecFish SA website at the domain name www.recfish.sa.com.au (**Website**) and any social media and other online services offered by RecFish SA (**Services**).

Unless otherwise expressly indicated, RecFish SA is the owner of all intellectual property rights, including copyright, comprised in and associated with the Website and Services, including the information, graphics, text and other materials contained on the Website and in any email communications (**Material**), and reserves all of its rights in respect of the Website, the Services and the Material. Your use of the Material, the Website and the Services is governed by these Terms of Use.

RecFish SA makes no representations as to the availability of the Website and Services. You agree that RecFish SA bears no responsibility for the Website and/or Services being unavailable for any reason, whether technical or otherwise. RecFish SA may cease to operate the Website and/or Services at any time.

By using the Website and Services, you affirm that you are 18 years or over or otherwise possess legal parental or guardian consent.

If you do not agree to any aspect of these Terms of Use, you should immediately discontinue your use of the Website and Services, and not access them again.

### Links to Other Web Sites

The Website and Services may contain links to or re-posts from other web sites operated by third parties (**Third Party Websites**). RecFish SA does not make any representations or warranties regarding, endorse, or approve of Third Party Websites, their operators, or the information, graphics and material on those Third Party Web Sites (**Third Party Material**), and has no control over, or liability and/or responsibility for, Third Party Websites or Third Party Material. You understand, acknowledge and agree that you are solely responsible for accessing Third Party Websites, and that RecFish SA disclaims all liability to you in respect of your access or use of Third Party Websites and Third Party Material and any resultant consequences. RecFish SA therefore recommends that you carefully review the terms and conditions and policies which apply to Third Party Websites.

### User Content

RecFish SA does not necessarily endorse, support, sanction, encourage, verify or agree with the comments, opinions or statements posted by third parties on the Services. Any information or material placed on the Services by third parties, including advice and opinions, is the view and responsibility of those third parties and does not necessarily represent the views of RecFish SA.

Where under an obligation to do so, RecFish SA will use its reasonable endeavours to monitor the Services to keep the Services up to date and accurate, but the Website should be regarded as the source of up to date information about matters relating to RecFish SA.

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RecFish SA reserves the right to moderate, reject, refuse to post/upload, reformat or delete any information, materials, submissions and content that you post on or through the Website and Services (including any text, files, images, photos, videos, sounds, musical works, literary works, artistic works, applications or any other material) (**User Content**), in its sole discretion, at any time (including after successful posting/uploading) for any reason, including if RecFish SA determines that User Content is contrary to these Terms of Use or considers that the User Content is, or is potentially, inappropriate, offensive, illegal, infringes the rights of another party, bullies or harasses another person, or harms or threatens the safety of another party (**Prohibited Content**).

RecFish SA does not undertake to inform users when their comments and posts are moderated, however RecFish SA will warn and take appropriate action to suspend and expel users who regularly and consistently submit Prohibited Content. Repeat offenders may be blocked from using the Services indefinitely.

Please carefully choose your User Content and ensure that it is not Prohibited Content or otherwise objectionable.

### **Your Use**

You may only use the Website and Services for personal and non-commercial purposes. Use of the Website and Services for commercial purposes, without the prior written authorisation of RecFish SA, is specifically prohibited. RecFish SA reserves the right to remove any material or content uploaded by you on the Website or Services which in its sole discretion it deems to be commercial, without prior notice. Uploading of commercial material, or use of the Website and Services for commercial purposes, may result in your entitlement to access the Website and Services being suspended or terminated. You understand and acknowledge that RecFish SA is permitted to use the Website and Services for commercial purposes.

Except as expressly intended by the functionality of the Website and Services, you must not alter or modify any part of Website and Services without the prior written approval of RecFish SA.

Use of the Website and Services for unlawful, illegal or otherwise prohibited activities, including but not limited to distribution of material which infringes the intellectual property rights of third parties, circulation of pornographic, defamatory, racist or otherwise objectionable material and collecting details of other users by any means whatsoever for the purpose of sending unsolicited email or any other form of unauthorised solicitation (**Prohibited Activities**), is prohibited.

RecFish SA expressly reserves the right to take any action deemed necessary in respect of any Prohibited Content or Prohibited Activities or other illegal or unauthorised use of the Website and Services by any person, including removing Prohibited Content without notice, referring matters to appropriate authorities for further investigation (such as police) and appropriate legal action.

You must immediately notify RecFish SA if you become aware or reasonably suspect that any User Content submitted by another user is Prohibited Content, or that any other user is engaging in Prohibited Activities, or proposes to do so.

### **Warranties**

While we have made every effort to ensure that information is free from error, RecFish SA does not warrant the accuracy, adequacy or completeness of Material on the Website or Services. All information is subject to change without notice. RecFish SA does not guarantee that the Website,

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Services or Third Party Websites will be free from viruses, or that access to the Website or Third Party Websites will be uninterrupted.

### **Limitation of Liability**

Subject to any terms, conditions or other responsibilities implied by law and which cannot legally be excluded, RecFish SA and its officers, agents, employees and other representatives exclude and are not liable to you for any losses, damages, liabilities, claims and expenses (including but not limited to legal costs and defence or settlement costs) incurred by you or any third party whatsoever, arising out of or referable to the Website or Services, whether in contract, tort including negligence, statute or otherwise.

The liability of RecFish SA and its officers, agents, employees and other representatives for a breach of any term, condition, guarantee or warranty implied by law and which cannot legally be excluded by RecFish SA and its officers, agents, employees and other representatives, is limited to the fullest extent possible, at RecFish SA's option, to:

- a) in the case of goods - replacement of the goods or the supply of equivalent goods, repair of the goods, payment of the cost of replacing the goods or acquiring equivalent goods, or payment of the costs of having the goods repaired; and
- b) in the case of services - the supply of the services again or payment of the cost of having the services supplied again.

### **Indemnity**

You agree to indemnify and hold harmless RecFish SA and its officers, agents, employees and other representatives (**Indemnified Parties**), from and against any loss (including legal costs and expenses on a solicitor-own client basis) or liability incurred or suffered by any of the Indemnified Parties in relation to any claim, suit, demand, action or proceeding by any person against any of the Indemnified Parties arising from your use of the Website and Services, or any breach by you of these Terms of Use, including but not limited to the representations and warranties made by you, as set out in these Terms of Use.

### **Termination**

These Terms of Use (and the agreement between the parties constituted by your access to, and use of, the information, graphics and materials on the Website and Services) and/or your access to the Website and Services may be terminated at any time by RecFish SA without notice. All restrictions, licences and indemnities granted by you, and all disclaimers and limitations of liability made by RecFish SA will survive termination, together with the obligations of confidentiality imposed on you, however you will no longer be authorised to access the Website or Services.

### **Privacy**

You must comply at all times with the *Privacy Act 1998* (Cth) and any other legislation, principles, industry codes and policies relating to the handling of all information about a person which is "personal information" as defined in Privacy Laws collected, used, disclosed or submitted via the Website and Services.

### **Confidentiality**

You must keep any confidential information of RecFish SA which is disclosed to you by RecFish SA in any form (regardless of whether or not marked confidential) confidential, and must not disclose such information to any other party except as required by law or as authorised by RecFish SA in writing. The obligations of confidence under this clause do not apply to any information that is in the public domain (other than through any breach of these Terms of Use) or to any information that you can prove was known to you at the time of disclosure by RecFish SA, free from any obligation of confidence, or information that you are required by law to disclose.

### **Acceptance and Changes to Terms of Use**

You acknowledge and accept that your use of the Website and Services indicates your acceptance of these Terms of Use.

These are the current Terms of Use. They replace any other terms of use for the Website and Services published on the Website and Services to date. RecFish SA may at any time vary the Terms of Use by publishing the varied Terms of Use on the Website or Services. You accept that by doing this, RecFish SA has provided you with sufficient notice of the variation and understand that your continued access and use of the Website and Services after publication of any variation indicates your acceptance of the revised Terms of Use.

For the avoidance of doubt, RecFish SA reserves any rights not expressly granted in these Terms of Use.

### **Governing Law**

These Terms of Use are governed by the laws and Courts of the State of South Australia, and you expressly submit to the jurisdiction of these Courts.

### **Notices**

You consent to receiving any notices or communications to which these Terms of Use refer from RecFish SA in electronic format, including without limitation by email or by posting on the Website or Services.

To contact RecFish SA in relation to these Terms of Use, please use the "contact us" form available on the Website.

### **Entire Agreement**

These Terms of Use constitute the entire agreement between you and RecFish SA regarding your access and use of the Website and Services.

### **Force Majeure**

Notwithstanding anything else, RecFish SA will not be liable for any delay in or failure to comply with these Terms of Use if such delay or failure is caused by circumstances beyond RecFish SA's reasonable control, including without limitation, fire, flood, act of God, strikes, lock outs, stoppage of work, trade disputes, internet down-time, or any act of war or terrorism.

### **Waiver**

No waiver by a party of any breach or default by any other party is effective unless reduced to writing and signed by the party making such waiver, and any such waiver does not constitute a waiver of any other continuing breach or default under these Terms of Use.

#### **Action by RecFish SA**

You acknowledge the right of RecFish SA to take action against you to prevent a breach of these Terms of Use and further acknowledge that damages may not be an appropriate remedy in those circumstances.

#### **Further Actions**

You agree to promptly do all things required by law or reasonably requested by RecFish SA to give effect to these Terms of Use.

#### **Severance**

If any provision of these Terms of Use is prohibited, invalid or unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of these Terms of Use or affecting the validity or enforceability of that provision in any other jurisdiction.

Approved 2 September 2014 Version 1