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**SUBMISSION IN OBJECTION**

TO THE DRAFT FISHERIES (INSHORE TRAWL BYCATCH  
MANAGEMENT) NOTICE 2024

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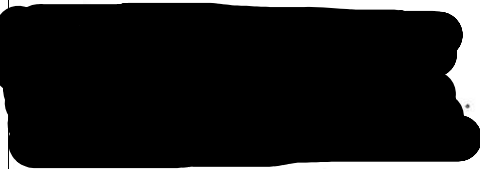



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**Signatures of objectors**

1. This submission is made jointly by:

- (a) [REDACTED] the named licence holder of Trawl (Inshore) Fishery Access Licence number [REDACTED] and
- (b) [REDACTED] the named licence holder of Trawl (Inshore) Fishery Access Licence number [REDACTED]; and [REDACTED]
- (c) [REDACTED] the named licence holder of Trawl (Inshore) Fishery Access Licence number [REDACTED]; and
- (d) [REDACTED] the named licence holder of Trawl (Inshore) Fishery Access Licence number [REDACTED]; and
- (e) [REDACTED] the named licence holder of Trawl (Inshore) Fishery Access Licence number [REDACTED] and
- (f) [REDACTED] the named licence holder of Trawl (Inshore) Fishery Access Licence number [REDACTED]; and
- (g) [REDACTED] the named licence holder of Trawl (Inshore) Fishery Access Licence number [REDACTED].

 ..... Oct 31, 2024 ..... Date	 .....  ..... 29.10.24 ..... Date
 ..... Oct 31, 2024 ..... Date	 ..... .29/10/2024..... Date
 .....  ..... Date	 ..... 30.10.2024..... Date
 ..... 31/10/24 ..... Date	

### **Summary Position**

2. The limits imposed on the amount of octopus to be taken by Trawl (Inshore) Fishery Access Licence holders under the proposed 2024 Notice makes their trawling operations unprofitable and not viable as a business.
3. The proposed limits on the daily catch of octopus have been set following a flawed consultation process that was not conducted in accordance with the consultation principles set out in s.3A of the *Fisheries Act* 1995 (the Act).
4. To properly comply with the consultation process set out in the Act the Victorian Fisheries Authority (VFA) would need to obtain appropriate expert advice on the effect of trawl fishing on octopus numbers in the Trawl Inshore Fishery and make that expert advice available as part of the consultation process.
5. Absent appropriate expert advice being made available as part of the consultation process any decision to make the Fisheries Notice limiting the daily octopus catch by Trawl (Inshore) Fishery Access Licence holders would be *ultra vires* and invalid.

### **Consultation Principles**

6. Section 3A the Act sets out consultation principles that apply to decisions made by the minister in the exercise of powers under the Act including the making of a Fisheries Notice under s.152(1) of the Act.
7. In a letter dated 4 October 2024 Travis Dowling, Chief Executive Officer of the VFA attached a Proposed Fisheries (Inshore Trawl Bycatch Management) Notice 2024. The letter advises that the VFA is conducting a public consultation for the proposed Fisheries Notice. It says that the proposed Notice follows on from the consultation on the previously proposed Fisheries (Inshore Trawl Bycatch Management) Notice 2023 and the workshops held in the industry in 2022 and 2024.

8. The letter sets out the purpose of the consultation related to the proposed controls set out in the Notice being the appropriate management of octopus bycatch in the Trawl (Inshore) Fishery.
9. The previously provided Fisheries (Inshore Trawl Bycatch Management) Notice 2023 Consultation Plan set out the purpose of the proposed 2023 Notice in the following terms:

*The purpose of the proposed Fisheries Notice is to fix and enforce catch limits for certain bycatch species, including finfish and octopus, for the Trawl (Inshore) Fishery. This will (i) support sustainable management of octopus harvest in Victorian waters and (ii) give further effect to the OCS arrangements, ensuring that these are appropriately and accurately reflected in Victoria's fishing rules. Specifically, the proposed Fisheries Notice aims to:*

*1. Implement an upper limit on total annual octopus bycatch across all licences, and a daily limit for octopus bycatch and possession under each licence in the Trawl (Inshore) fishery. This will help ensure that octopus is not targeted under Trawl (Inshore) Fisheries Access licences and support sustainable management of octopus take across Trawl (Inshore) and Octopus Fishery Access Licence Classes.*

*2. Clarify the species-specific daily bycatch limits and combined daily bycatch limit of finfish that may be taken by Trawl (Inshore) Fishery Access Licence holders. This addresses an administrative error in the Victorian regulatory provisions that enact the possession limits agreed under the OCS framework.*

10. Section 3A(1)(b) of the Act provides that the level of consultation should reflect the likely impact of decisions on persons and fisheries resources. Further s.3A(1)(g) provides that the consultation process should consider expert advice which should be obtained from the most appropriate provider. Finally s.3A(1)(h) provides that any expert advice obtained during the consultation process should be made available to persons participating in the consultation process.
11. The previously provided Fisheries (Inshore Trawl Bycatch Management) Notice 2023 Consultation Plan describes the advice relied on for the purposes of the consultation process as being internal resources of the VFA.

**Impact of a decision to make the proposed 2024 Notice**

12. The proposed 2024 Notice relevantly differs from the proposed 2023 Notice in that it raises the daily limit on the catch and possession of octopus by Trawl (Inshore) Fishery Access Licence holders from 50kg to 100kg.
13. Raising the daily limit on the catch and possession of octopus from 50kg to 100kg in the proposed 2024 Notice will not assist the Trawl (Inshore) Fishery Access Licence holders in making their trawling operations economically viable.
14. In the months between December and May, the licence holders typically fish in shallower waters using prawn nets targeting prawns, bugs and crabs. This practice generally only results in a catch of between 50kg to 100kg of octopus per trip.
15. In the months between June and November, the licence holders typically fish in deeper waters using larger fish trawling nets with sweeps. This practice generally results in a catch of approximately 500kg of octopus per trip but can be substantially more at times. For example, on a two-day fishing trip of up to 4 net ‘shots’, larger

operations will catch between 1,000kg and 2,000kg of octopus.

16. Trawling in shallower waters during the period June to November is possible, but the yield and returns are so minuscule, that it is not economically viable to fish at all.
17. Trawling in deeper waters during the period June to November using only the prawn trawling nets is also possible, but the fish that are caught using that practice are generally very small and unmarketable meaning the returns are very low. Again, it is not economically viable fish at all if confined to that method.
18. At 100kg limit per trip, the licence holders would not fish during the period June to November, so the 30-tonne annual limit would not be reached. However, without trip limits, the 30-tonne annual limit would be reached quickly, and it would be a race between the operators to catch as much as possible as soon as possible, a process favouring the larger operators over the smaller operators within the fishery.
19. In short the limits imposed in the proposed 2024 Notice would make trawling between June and November not viable for licence holders. The catch between December and June would not yield enough to make licence holders trawling operations profitable.
20. No material has been made available as part of the consultation process that suggests that the current level of trawling in the fishery is having a negative effect on octopus numbers in the Trawl (Inshore) Fishery.
21. The absence of proper material made available as part of the consultation process supporting the proposed changes in the 2024 Notice gives rise to the irresistible inference and public perception that the real reason for the 2024 Notice is that the VFA is purporting to introduce a new quota managed octopus fishery without fully understanding the extent of participation in the fishery and potential stock management implications.



22. The 2024 Notice is an ill-considered proposal and if made, not only would the proposed 2024 Notice result in the closing down of some trawler businesses but it would also result in the loss of seafood products in the market.
23. The dire consequences of the 2024 Notice on Trawl (Inshore) Fishery Access Licence holders cannot be underestimated. In some cases, Trawl (Inshore) Fishery Access Licence holders have invested substantially in their equipment and businesses. The VFA has had the full knowledge of the precise practices, effort and catch of the Trawl (Inshore) Fishery Access Licence holders for decades by reason of (amongst other surveillance and inspection action) the mandatory and detailed catch reporting logbooks. The VFA's long-standing endorsement of the trawling methods used by Trawl (Inshore) Fishery Access Licence holders has incited and encouraged licence holders to investment substantial amounts in their businesses and equipment.
24. The 2024 Notice represents a dramatic and radical departure from the VFA's long-standing position and, for some Trawl (Inshore) Fishery Access Licence holders, will be economically fatal as their livelihoods depend on it.

**Consultation Process Defective - Expert advice**

25. Given the impact of the proposed limits in the proposed 2024 Notice on Trawl (Inshore) Fishery Access Licence holders and the viability of their businesses the importance of adherence to the consultation principles set out in the Act is imperative.
26. Any genuine concerns in relation to octopus stock levels and current fishing practices should be thoroughly investigated by, amongst other things, a longitudinal stock assessment and thereafter a management plan should be developed. Any

implications to Trawl (Inshore) Fishery Access Licence holders should be considered as one of many terms of reference in that process.

27. In submissions made in relation to the proposed 2023 Notice at paragraph 47 of the submissions it was pointed out that:

*a fundamental step of achieving compliance with the Consultation*

*Principles is to obtain sound expert advice predicated on empirical data and comprehensive longitudinal studies. Such expert advice would naturally include, amongst other things:*

*(a) expert advice on the negative impacts on the commercial operations of Trawl(Inshore) Fishery Access Licence holders;*

*(b) expert advice on the consequential economic burden to the industry;*

*(c) expert scientific advice on the stock levels of octopus in the waters in which Trawl (Inshore) Fishery Access Licence holders operate;*

*(d) expert scientific advice on the precise effect the trawling practices have had, or will have, on the stock levels of octopus in the waters in which Trawl (Inshore)Fishery Access Licence holders operate; and*

*(e) expert advice on the threshold stock levels and catch levels which constitute sustainable and unsustainable.*

28. Attached are the submissions made in relation to the proposed 2023 Notice. Those submissions are relied on in addition to these submissions in relation to the proposed 2024 Notice.

29. No material was made available in the consultation process that would support imposing limits on that octopus catch in the Trawl (Inshore) Fishery. At a meeting held on 20 August 2022 participants at the meeting were told that the research

conducted by the VFA in relation to octopus catch was based on pot fishing practices and that no research had been undertaken in relation to trawl fishing practices.

30. In particular no expert advice has been made available in the consultation process that specifically deals with the effect of trawl fishing practices in the Victorian Trawl (Inshore) Fishery on the octopus population within the fishery as required by s.3A(1)(g) and (h) of the Act.
31. In those circumstances there can be no proper basis for setting catch and possession limits at 100kg per day on octopus in the Trawl (Inshore) Fishery.
32. It follows that as the consultation principles set out in the Act have not been complied with in the consultation process and any decision by the Minister to make the proposed 2024 Notice would be *ultra vires* and invalid.
33. To avoid going into error in the decision to make a Fisheries Notice limiting the daily catch of octopus in the inshore trawl fishery it would be necessary for the consultation process to consider expert advice predicated on empirical data and comprehensive longitudinal studies on the effect of trawl fishing on octopus numbers in the Trawl (Inshore) Fishery. Arriving at a figure limiting the daily catch without resort to a properly resourced study into the effects of trawl fishing on octopus numbers in the Trawl (Inshore) Fishery cannot be said to be a proper consultation process as set out in the Act. Reliance on material in relation pot fishing practices as a substitute for a study based on trawl fishing would not result in a proper consultation process under the Act.

**Conclusion**

34. Given the deficiencies in the consultation process and the failure to comply with the consultation principles in relation a decision to make a Fisheries Notice under the Act it is clear that the proposed 2024 Notice should not be made and it should be withdrawn. If the VFA wants to consider limiting the daily catch of octopus by Trawl (Inshore) Fishery Access Licence holders by a Fisheries Notice it should obtain expert advice relating to the effect of trawl fishing on octopus numbers in the Trawl Inshore Fishery and make that information available interested parties as part of the consultation process under the Act in relation to the decision to make a Fisheries Notice.

**DATED: 29 OCTOBER 2024**

[Redacted signature]

- and -

[Redacted signature]

- and -

[Redacted signature]

- and -

[Redacted signature]

- and -

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- and -

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[Redacted signature]

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MANAGEMENT) NOTICE 2023

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**A. Signatures of objectors**

1. This submission is made jointly by:

- (a) [redacted] the named licence holder of Trawl (Inshore) Fishery  
Access Licence number [redacted] and
  - (b) [redacted] the named licence holder of Trawl (Inshore) Fishery  
Access Licence number [redacted], and
  - (c) [redacted] the named licence holder of Trawl (Inshore)  
Fishery Access Licence number [redacted] and
  - (d) [redacted] the named licence holder of Trawl (Inshore) Fishery Access  
Licence number [redacted]
- (Collectively, “the objectors”.)

<p>[redacted]</p> <p>[redacted]</p> <p>14.11.23</p> <p>.....</p> <p>Date</p>	<p>[redacted]</p> <p>[redacted]</p> <p>14.11.23</p> <p>.....</p> <p>Date</p>
<p>[redacted]</p> <p>[redacted]</p> <p>14/11/2023</p> <p>.....</p> <p>Date</p>	<p>[redacted]</p> <p>[redacted]</p> <p>14/11/2023</p> <p>.....</p> <p>Date</p>

**B. Exhibit to submission**

2. A document referred to in this submission with a reference to a page number in square brackets such as [P001] is a reference to the paginated bundle exhibit submitted herewith.

**C. Nature of submission**

3. This submission is made in response to a letter dated 13 October 2023 from Mr Travis Dowling of the Victorian Fisheries Authority (“VFA”) enclosing the draft Fisheries (Inshore Trawl Bycatch Management) Notice 2023 (“the Notice”) [P001 to P005], which was received by each of the respective objectors (“VFA Letter”). The VFA Letter invited that submissions be provided by each of the objectors by 17 November 2023.
4. This submission is submitted by each of the objectors in addition to a bundle of further documents which each of the objectors intends to submit separately in relation to their own circumstances and respective businesses.
5. The Fisheries (Inshore Trawl Bycatch Management) Notice 2023 Consultation Plan dated 13 October 2023 (“Consultation Plan”) [P006 to P014] accurately states that:

*The proposed measures set out in the draft notice are particularly relevant Victorian Trawl (Inshore) Fishery Access licence holders.*<sup>1</sup>
6. Accordingly, this submission made by the objectors, all being the holders of Trawl (Inshore) Fishery Access Licences, should carry significant weight and should not be

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<sup>1</sup> Page 5 of the Consultation Plan, at item [2] in the table.



easily displaced.

**D. Summary of submission**

7. The objectors submit that the Notice should not be made.
8. The objectors submit that the VFA should obtain expert advice based on empirical data and comprehensive longitudinal studies and disclose that advice to stakeholders as part of a consultation process for any future proposed notice in respect of octopus catch limits to Trawl (Inshore) Fishery Licence holders.

**E. Objectives of the Notice**

9. The purported objectives of the Notice are:
  - (a) to “*give further effect to the Offshore Constitutional Settlement Arrangement between the Commonwealth and Victoria as it relates to the management of trawl fishing (and the Memorandum of Understanding that supplements the Arrangements)*”<sup>2</sup> (“**First Objective**”); and
  - (b) to “*fix and enforce catch limits for certain bycatch species, including finfish and octopus for the Trawl (Inshore) Fishery*”<sup>3</sup> (“**Second Objective**”).

**F. First Objective**

10. In or about October 1997, the Commonwealth of Australia and the State of Victoria entered into a series of arrangements in relation to fishing activities in “*waters relevant to Victoria*” which are collectively referred to as the Offshore Constitutional Settlement

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<sup>2</sup> Paragraph 2(a) of the Notice.

<sup>3</sup> Paragraph 2(b) of the Notice

Arrangements (“**OCS Arrangements**”). [P015 to P043]

11. One of the OCS Arrangements is titled “*Arrangement between the Commonwealth and State of Victoria in relation to the trawl fishery to be managed under State Law in waters relevant to Victoria*” which was signed by the Commonwealth on 29 October 1997 and signed by Victoria on 14 October 1997 (“**Victorian Law Trawl Fishery Arrangement**”). [P015 to P018]
  
12. The fishery to which the Victorian Law Trawl Fishery Arrangement applies relevantly includes:<sup>4</sup>

*the taking, in all waters relevant to Victoria ... of fish ... by way of bycatch, in the exercise of a right conferred by a licence or other authority granted by the State in respect of the fishery described in clause 2.*
  
13. For completeness, the Trawl (Inshore) Fishery Access Licences held by each of the objectors are licences in respect of the fishery described in clause 2 of the Victorian Law Trawl Fishery Arrangement in that, pursuant to regulation 266(1) of the *Fisheries Regulations 2019* (Vic), the licences authorise the taking of fish by trawl nets (subject to a litany of conditions).
  
14. Accordingly, the taking of all fish<sup>5</sup> by way of bycatch under the Trawl (Inshore) Fishery Access Licences held by the objectors is pursuant to the Victorian Law Trawl Fishery Arrangement.

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<sup>4</sup> Victorian Law Trawl Fishery Arrangement, at clause 3.

<sup>5</sup> Except for Billfish, Northern bluefin tuna, Southern bluefin tuna – being express exceptions under clause 3 of the Victorian Law Trawl Fishery Arrangement.

15. The other OSC Arrangement which is relevant to trawl fishing is titled “*Arrangement between the Commonwealth and State of Victoria in relation to the trawl fishery to be managed under Commonwealth Law in waters relevant to Victoria*” which was signed by the Commonwealth on 29 October 1997 and signed by Victoria on 14 October 1997 (“**Commonwealth Law Trawl Fishery Arrangement**”). [P019 to P022]
16. Broadly, the fishery to which the Commonwealth Law Trawl Fishery Arrangement applies is all fishing activities for all species taken by trawling except for:
- (a) Bay bug, Eastern king prawn, Giant crab, Sand crab School prawn, Abalone and Rock lobster; and
  - (b) the taking of fish by way of bycatch in accordance with a licence granted by the State.
17. Accordingly, pursuant to the OCS Arrangements, trawling activities in the waters relevant to Victoria are regulated as follows:
- (a) under Victorian law:
    - (i) only Bay bug, Eastern king prawn, Giant crab, Sand crab School prawn, Abalone and Rock lobster; and
    - (ii) bycatch of any other species of fish<sup>6</sup> taken in accordance with a licence granted by the State, such as the Trawl (Inshore) Fishery Access Licence.
  - (b) under Commonwealth law, all species except for:
    - (i) Bay bug, Eastern king prawn, Giant crab, Sand crab School prawn,

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<sup>6</sup> Except for Billfish, Northern bluefin tuna, Southern bluefin tuna.

Abalone and Rock lobster; and

- (ii) bycatch of any other species of fish taken in accordance with a licence granted by the State, such as the Trawl (Inshore) Fishery Access Licence.

18. On or about 25 October 1997, the Commonwealth, the Australian Fisheries Management Authority (“AFMA”) and the State of Victoria entered into a memorandum of understanding titled “*Memorandum of understanding between the Commonwealth of Australia, the Australian Fisheries Management Authority and the state of Victoria with respect to the fisheries in water relevant to Victoria*” (“**the MOU**”). [P044 to P055]<sup>7</sup> It appears that the MOU was intended to give meaning to the bycatch exceptions in the OCS Arrangements.

19. In the MOU, Victoria relevantly undertook to:<sup>8</sup>

*manage ... possession limits in waters relevant to Victoria and will require fishing concession holders to submit records of retained bycatch species as reasonably requested in writing by AFMA. Victoria also undertakes, where possible, to validate the records pertaining to retained bycatch.*

*FINFISH – Combined possession limit of 400 kg whole weight of all species under Commonwealth jurisdiction by virtue of the OSC arrangements made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the fishery for finfish and the trawl fishery to be managed under Commonwealth law within which the following possession limits apply to the specified*

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<sup>7</sup> The version of the MOU reproduced in the exhibit bundle is from the VFA website and contains obvious errors which may not be present on the original document.

<sup>8</sup> MOU, first paragraph under the heading ‘State Possession Limits’ at [P051 to P053] of the exhibit bundle.

*species/species groupings: ...*

20. Pursuant to the MOU, there is to be a combined possession limit of 400 kilograms of all species under ‘Commonwealth jurisdiction’, which, in the context of trawling, are species to which the Commonwealth Law Trawling Fishery Arrangement applies.
21. Additionally, the table in the MOU sets out possession limits for specific species under ‘Commonwealth jurisdiction’, which again, in the context of trawling, are species to which the Commonwealth Law Trawling Fishery Arrangement applies.

**G. Second Objective**

22. The Second Objective, to “fix” and “enforce” catch limits for “certain” bycatch species, is given more context by reference to the Consultation Plan, which states:<sup>9</sup>

*The purpose of the proposed Fisheries Notice is to fix and enforce catch limits for certain bycatch species, including finfish and octopus, for the Trawl (Inshore) Fishery. This will (i) support sustainable management of octopus harvest in Victorian waters and (ii) give further effect to the OCS arrangements, ensuring that these are appropriately and accurately reflected in Victoria’s fishing rules. Specifically, the proposed Fisheries Notice aims to:*

1. *Implement an upper limit on total annual octopus bycatch across all licences, and a daily limit for octopus bycatch and possession under each licence in the Trawl (Inshore) fishery.*

*This will help ensure that octopus is not targeted under Trawl (Inshore) Fisheries Access licences and support sustainable management of octopus*

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<sup>9</sup> Page 5 of the Consultation Plan, at item [6] in the table, being [P010] of the exhibit bundle.

*take across Trawl (Inshore) and Octopus Fishery Access Licence Classes.*

2. *Clarify the species-specific daily bycatch limits and combined daily bycatch limit of finfish that may be taken by Trawl (Inshore) Fishery Access Licence holders. This addresses an administrative error in the Victorian regulatory provisions that enact the possession limits agreed under the OCS framework.*

23. Accordingly, it appears that the intention of the Notice is to cure an “administrative error” of not giving effect to the undertaking in the MOU in respect of possession limits of bycatch for species otherwise regulated under Commonwealth law and the “fix” intended by the Notice is to list those possession limits.

**H. Paragraph 10 of the Notice – species to which the Commonwealth law applies**

*Paragraphs 10(1), 10(2) and 10(3) of the Notice*

24. The table in the MOU which sets out the possession limits for species under Commonwealth jurisdiction is largely replicated in Schedule 1 to the Notice and incorporated to the Notice by paragraph 10 of the Notice.
25. However, the table in the MOU has already been given effect in Victorian law by way of the *Fisheries Act 1995* (Vic) (“**the Act**”) and the *Fisheries Regulations 2019* (Vic) (“**the Regulations**”).
26. The following table is a matrix of the possession limits as provided in the MOU and the corresponding provision in the Act and/or the Regulations that already gives effect to those possession limits:

<b>Common Name</b>	<b>Possession Limit</b>	<b>Act / Regulation provision</b>
Albacore, skipjack and longtail tuna and Rays bream (Pomfret) combined	10 fish	Regulation 72 and Schedule 18 (Table A)
Bass, bass groper and hapuku combined	0 kg	Regulation 73 and Schedule 18 (Table B)
Bigeye & yellowfin tuna combined	2 fish	Regulation 72 and Schedule 18 (Table A)
Blue-eye trevalla and Pink ling combined	50 kg	Regulation 72 and Schedule 18 (Table A)
Gemfish	0 kg	Regulation 73 and Schedule 18 (Table B)
Jackass morwong	50 kg	Regulation 72 and Schedule 18 (Table A)
John dory	30 kg	Regulation 72 and Schedule 18 (Table A)
Mirror dory	20 kg	Regulation 72 and Schedule 18 (Table A)
Southern bluefin tuna, northern bluefin tuna and Billfish	0 kg	Regulation 73 and Schedule 18 (Table B)
Warehou, blue	100 kg	Regulation 72 and Schedule 18 (Table A)
Warehou, spotted	100 kg	Regulation 72 and Schedule 18 (Table A)
Ocean perch	50 kg	Regulation 72 and Schedule 18 (Table A)
King dory	0 kg	Regulation 73 and Schedule 18 (Table B)
Oxeye oreodory	0 kg	Regulation 73 and Schedule 18 (Table B)
Smooth oreodory	0 kg	Regulation 73 and Schedule 18 (Table B)
Spiky oreodory	0 kg	Regulation 73 and Schedule 18 (Table B)
Warty oreodory	0 kg	Regulation 73 and Schedule 18 (Table B)
Blue grenadier	0 kg	Regulation 73 and Schedule 18 (Table B)
Black oreodory	0 kg	Regulation 73 and Schedule 18 (Table B)
Orange roughy	0 kg	Regulation 73 and Schedule 18 (Table B)
*Flathead, all species	200 kg	Regulations 271(1)(c) and 271(2)
* Silver trevally	200 kg	Regulations 271(1)(c) and 271(2)

Yelloweye nannygai	50 kg	Regulation 72 and Schedule 18 (Table A)
Redfish	50 kg	Regulation 72 and Schedule 18 (Table A)
*School whiting	200 kg	Regulations 271(1)(c) and 271(2)
Note: the above species marked with an asterisk* only apply to a holder of a State fishing concession allowing the use of a trawl method.		

27. Accordingly, paragraphs 10(1), 10(2) and 10(3) of the Notice *have no work to do*. The Notice is not required to give effect to the undertaking in the MOU to manage possession limits of bycatch for the specified species.

Paragraph 10(4) of the Notice

28. Paragraph 10(4) of the Notice seeks to cure the apparent difference between:
- (a) the undertaking given by Victoria in the MOU to manage a combined possession limit of 400 kilograms of all species under Commonwealth jurisdiction by virtue of the OSC Arrangements; and
  - (b) regulation 72(2) of the Regulations which only imposes the combined possession limited of 400 kilograms to the species listed in Table A of Schedule 18 to the Regulations, which is a subset of all species under Commonwealth jurisdiction.
29. Paragraph 10(4) of the Notice applies only to Trawl (Inshore) Fishery Access Licence holders. Accordingly, the Notice does not cure the apparent difference identified in the preceding paragraph above as the 400 kilogram combined possession limit is selectively applied only to the Trawl (Inshore) Fishery Access Licence holders. The “fix” intended by the Notice is incoherent as the undertaking given by Victoria in the MOU is not



selective to trawl fishing activities only.

30. If the Notice were amended to not be limited to Trawl (Inshore) Fishery Access Licence holders, it would render regulation 72(2) of the Regulations otiose.
31. Furthermore, paragraph 10(4) of the Notice adopts the term “finfish” without any definition. The use of the undefined term “finfish” in the Notice does not clearly, or at all, incorporate all species to which the Commonwealth Law Trawling Fishery Arrangement applies. Therefore, it cannot be said that the Notice gives effect to the OSC Arrangements and the MOU.
32. Accordingly, if Victoria has for 26 years overlooked its obligation pursuant to the undertaking in the MOU to manage a 400 kilogram combined possession limit for species under Commonwealth jurisdiction and action is now required, the appropriate course is that regulation 72(2) of the Regulations be amended to expand the prohibition from the specified species listed in Table A of Schedule 18 of the Regulations to all species under Commonwealth jurisdiction pursuant to the OSC Arrangements. The Notice is not the appropriate device.

**I. Paragraphs 6 to 9 of the Notice – an octopus daily catch limit**

*Consequences of an introduction of an octopus daily catch limit*

33. Paragraphs 6 to 9 of the Notice seek impose a suite of prohibitions and obligations on Trawl (Inshore) Fishery Access Licence holders in respect of the taking of octopus.
34. In respect of octopus, the Notice expresses its objectives to be to “*fix and enforce*” catch

limits for certain bycatch species “*including octopus*”.

35. In the Notice, “*bycatch*” is defined:

*all species of fish other than –*

*i) bay bug;*

*ii) eastern king prawn;*

*iii) sand crab; or*

*iv) school prawn;*

36. For the purposes of this submission, it is assumed that octopus fall within the definition of “*fish*” pursuant to section 5(1)(c) of the Act.

37. There is presently no catch limit on octopus imposed on Trawl (Inshore) Fishery Access Licence holders.

38. There is no express reference to octopus and/or octopus possession limits in the OCS Arrangements and/or the MOU. It cannot be said that the imposition of the minuscule limit of 50 kilograms of octopus per day on Trawl (Inshore) Fishery Access Licence holders in the Notice is to “*give further effect to*” the OCS Arrangements and/or the MOU.

39. The objectors say that the proposed introduction of the minuscule limit of 50 kilograms of octopus per day for Trawl (Inshore) Fishery Access Licence holders would:

(a) necessitate a substantial change to existing fishing practices;

(b) result in many dead octopus being returned to the water, instead of sold to the

community for food supply;

- (c) increase expenses by reason of the change in fishing practices; and
- (d) decrease revenues by reason of loss of sales of dead octopus being returned to the water.

40. The objectors may each submit further material in relation to the practical and financial consequences of the introduction of the 50 kilogram daily octopus limit on their respective businesses.

41. The Notice proposes to introduce a 50 kilogram daily limit on Trawl (Inshore) Fishery Access Licence holders whilst, in recent years, the VFA has introduced new additional octopus fisheries with a new class of licence.

42. The obvious question is: If octopus stock is at such jeopardy that a daily limit of a mere 50 kilograms on Trawl (Inshore) Fishery Access Licence holders is required, how is the introduction of new and additional octopus fisheries justifiable?

*Consultation principles*

43. Section 3A(1) of the Act sets out consultation principles which apply to decisions that affect the use and conservation of Victoria's fisheries resources ("**Consultation Principles**").

44. Pursuant to section 3A(2)(k) of the Act, the Notice is a decision to which the Consultation Principles apply.

45. In particular, the Consultation Principles include:

*To the extent that it is practicable, the following consultation principles apply to decisions made by the Minister, Secretary or Victorian Fisheries Authority under this Act, which affect the use and conservation of Victoria's fisheries resources—*

...

*(b) the level of consultation should reflect the likely impact of decisions on persons and fisheries resources;*

*(c) the consultation process should be adequately resourced;*

...

*(g) the consultation process should consider expert advice, which should be obtained from the most appropriate provider;*

*(h) any expert advice obtained during the consultation process should be made available to persons participating in the consultation process.*

46. Given the purpose of paragraphs 6 to 9 of the Notice are clearly and obviously to impose a new prohibition which is substantial on Trawl (Inshore) Fishery Access Licence holders, that the corollary is that the Notice is:

(a) intended to negatively impact on the commercial operations of Trawl (Inshore) Fishery Access Licence holders; and

(b) reduce the octopus catch of Trawl (Inshore) Fishery Access Licence holders which are purportedly adopting practices which threaten the sustainability of the octopus stock.

47. Accordingly, a fundamental step of achieving compliance with the Consultation Principles is to obtain sound expert advice predicated on empirical data and

comprehensive longitudinal studies. Such expert advice would naturally include, amongst other things:

- (a) expert advice on the negative impacts on the commercial operations of Trawl (Inshore) Fishery Access Licence holders;
- (b) expert advice on the consequential economic burden to the industry;
- (c) expert scientific advice on the stock levels of octopus in the waters in which Trawl (Inshore) Fishery Access Licence holders operate;
- (d) expert scientific advice on the precise effect the trawling practices have had, or will have, on the stock levels of octopus in the waters in which Trawl (Inshore) Fishery Access Licence holders operate; and
- (e) expert advice on the threshold stock levels and catch levels which constitute sustainable and unsustainable.

(Collectively, “**Expert Advice**”.)

48. It cannot be controversial that the Expert Advice would provide vital informative material to the VFA “*to support sustainable managed of octopus harvest in Victorian waters*”.<sup>10</sup>

49. The objectors are unaware of any such Expert Advice and can only assume that the VFA did not obtain the Expert Advice prior to the drafting of the Notice.

50. If the VFA did obtain the Expert Advice, the Expert Advice should be provided in full to stakeholders, including Trawl (Inshore) Fishery Access Licence holders, for consideration and comment and the current consultation process should be terminated.

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<sup>10</sup> Page 5 of the Consultation Plan, at item [6] in the table, being [P010] of the exhibit bundle.

51. In the absence of the Expert Advice, the objectors submit that the VFA has failed to apply the Consultation Principles.

**DATED: 13 NOVEMBER 2023**

[REDACTED]

- and -

[REDACTED]

[REDACTED]

[REDACTED]

## Fisheries Act 1995

### FISHERIES NOTICE 2023

I, Travis Dowling, Chief Executive Officer of the Victorian Fisheries Authority, as delegate of the Minister for Fishing and Boating and having considered the outcome of consultation in accordance with Section 3A of the *Fisheries Act 1995* (the Act), make the following Fisheries Notice under sections 67, 68A and 152 of the Act:

Dated:

**Travis Dowling**  
**Chief Executive Officer**  
**Victorian Fisheries Authority**

#### FISHERIES (INSHORE TRAWL BYCATCH MANAGEMENT) NOTICE 2023

##### **1. Title**

This Notice may be cited as the Fisheries (Inshore Trawl Bycatch Management) Notice 2023.

##### **2. Objectives**

The objectives of this Notice are to –

- (a) give further effect to the Offshore Constitutional Settlement Arrangement between the Commonwealth and Victoria as it relates to the management of trawl fishing (and the Memorandum of Understanding that supplements the Arrangements); and
- (b) fix and enforce catch limits for certain bycatch species, including finfish and octopus for the Trawl (Inshore) Fishery.

##### **3. Authorising provisions**

This Notice is made under sections 67, 68A and 152 of the Act.

##### **4. Commencement**

This Notice comes into operation on xxx 2023.

##### **5. Definitions**

In this Fisheries Notice –

**aggregated amount** means the total amount of octopus taken across all Trawl (Inshore) Fishery Access Licences over the 12 month period from the commencement of this notice;

**bycatch** means all species of fish other than –

- i) bay bug;
- ii) eastern king prawn;
- iii) sand crab; or
- iv) school prawn;

**CEO** means the Chief Executive Officer of the VFA;

**closed season** with respect to octopus is the period between the time a determination under clause 9 comes into effect and the time it is revoked;

**fishing trip** has the same meaning as in the **Fisheries Regulations 2019**;

**licence operator** has the same meaning as in the **Fisheries Regulations 2019**;

**octopus** means pale octopus (*Octopus pallidus*), Maori octopus (*Macroctopus maorum*) and gloomy octopus (*Octopus tetricus*);

**place of landing** has the same meaning as in the **Fisheries Regulations 2019**;

**the Act** means the **Fisheries Act 1995**;

**upper limit** means 30 tonnes of octopus;

**VFA** means the Victorian Fisheries Authority.

## 6. **Catch and possession limit for octopus**

(1) For the purposes of the Act, the catch limit with respect to –

(a) the taking of octopus; or

(b) the possession of octopus on board any boat –

under a Trawl (Inshore) Fishery Access Licence by the holder of the licence, or any person acting or purporting to act under the licence, is 50 kilograms per day.

**Note:** There are offences in sections 68A and 68B of the Act relating to taking or possessing fish in excess of the catch limit in this fisheries notice. Various penalties apply.

(2) For the purposes of section 67 of the Act, the landing on any one day of more than 50 kilograms of octopus taken under a Trawl (Inshore) Fishery Access Licence, by the holder of the licence, or any person acting or purporting to act under the licence, is prohibited.

**Note:** A failure to comply with a prohibition is an offence under section 67(3) of the Act. A penalty of 100 penalty units or 6 months imprisonment or both applies.

(3) The holder of Trawl (Inshore) Fishery Access Licence or any person acting or purporting to act under the licence must not take, possess or land octopus under the licence on any fishing trip the person undertakes under an Octopus Fishery Access Licence or General Permit authorising the taking of octopus.

Penalty: 50 penalty units

## 7. **Weighing of octopus taken and notification of post-fishing details**

(1) The holder of a Trawl (Inshore) Fishery Access Licence and the licence operator of the licence must ensure that all octopus taken under the licence is weighed no later than 60 minutes after the boat arrives at a place of landing.

Penalty: 50 penalty units

(2) The holder of a Trawl (Inshore) Fishery Access Licence or the licence operator, must, no later than 60 minutes after the boat arrives at a place of landing and before the octopus leave that place of landing, provide the following details to the VFA via the fisheries notification service in relation to octopus taken under the licence —

(a) the licence number of the access licence;

(b) the estimated time at which the octopus are to be moved from the place of landing;

(c) the total net weight (in kilograms) of octopus taken under the licence.



Penalty: 50 penalty units

- (3) Until the holder of a Trawl (Inshore) Fishery Access Licence, or the licence operator, has complied with sub-clause (1) and (2) in respect of octopus taken under the licence, they must not allow that octopus to—
- (a) enter any vehicle that already contains octopus; or
  - (b) be sold, consigned or given to another person; or
  - (c) enter any premises on which octopus is processed or held.

Penalty: 50 penalty units

#### **8. Determination that upper limit reached**

- (1) The CEO may determine that the upper limit for the aggregated amount of octopus taken by Trawl (Inshore) Fishery Access Licence holders is met or exceeded.
- (2) Without limiting the generality of sub-clause (1), a determination may:
  - (a) specify that it comes into effect on a particular date and time; and
  - (b) be varied or revoked at any time.
- (3) The CEO must ensure that a copy of the determination is sent to each Trawl (Inshore) Fishery Access Licence holder as soon as possible after it is made.

#### **9. Closed season**

- (1) For the purposes of section 67 of the Act –
  - (a) the taking of octopus; or
  - (b) the possession of octopus in or on Victorian waters; or
  - (c) the landing of octopus –

during the closed season under a Trawl (Inshore) Fishery Access Licence by the holder of the licence, or a person acting or purporting to act under the licence, is prohibited.

**Note:** Failure to comply with this prohibition is an offence under section 67 of the Fisheries Act 1995. A maximum penalty of 100 penalty units and/or six months imprisonment applies.

#### **10. Catch and possession limits for finfish taken by trawl**

- (1) For the purposes of the Act, the daily catch limit with respect to the species of fish set out in Column 2 of the Table in Schedule 1 by the holder of a Trawl (Inshore) Fishery Access Licence, or a person acting or purporting to act under the licence, is the limit specified in Column 3 of the Table in Schedule 1 that corresponds to that species.

**Note:** There are offences in sections 68A and 68B of the Act relating to taking or possessing fish in excess of the catch limit in this fisheries notice. Various penalties apply.

- (2) For the purposes of the Act, the daily possession limit with respect to the species of fish set out in Column 2 of the Table in Schedule 1 onboard a boat by the holder of a Trawl (Inshore) Fishery Access Licence, or a person acting or purporting to act under the licence, is the limit specified in Column 3 of the Table in Schedule 1 that corresponds to that species.

**Note:** There are offences in sections 68A and 68B of the Act relating to taking or possessing fish in excess of the catch limit in this fisheries notice. Various penalties apply.

- (3) For the purposes of section 67 of the Act, the landing of a species of fish set out in Column 2 of the Table in Schedule 1 in a quantity that exceeds the limit specified in Column 3 of the Table in Schedule 1 that corresponds to that species, on any one day by the holder of a Trawl (Inshore) Fishery Access Licence, or a person acting or purporting to act under the licence, is prohibited.

**Note:** A failure to comply with a prohibition is an offence under section 67(3) of the Act. A penalty of 100 penalty units or 6 months imprisonment or both applies.

- (4) Despite clause 10(1), (2) and (3), the holder of a Trawl (Inshore) Fishery Access Licence, or a person acting or purporting to act under the licence, on any one day, must not take, possess, retain on board or land from a boat, more than a combined total of 400 kilograms of finfish of any one or more species.

Penalty: 50 penalty units

### ***11. Application to fisheries reserves***

This Notice applies to a Fisheries Reserve, as declared under section 88 of the Act, to the extent that fishing is permitted in the Fisheries Reserve.

### ***12. Revocation***

Unless sooner revoked, this Notice will be revoked on xxxxx.

**Note:** Under section 152(3) of the Act, if a provision of this Notice is inconsistent with any regulations, the Fisheries Notice prevails to the extent of the inconsistency. The general size limits and catch limits specified in the *Fisheries Regulations 2009* will continue to apply in circumstances where the size and catch limits specified in this Notice do not apply.

**Schedule 1**

**Table: Daily catch, possession and landing limits on certain species of fish when taken by a Trawl (Inshore) Fishery Access Licence, or a person acting or purporting to act under the licence**

<i>Column 1 Item No.</i>	<i>Column 2 Species of fish</i>	<i>Column 3 Daily limit</i>
1	Albacore, skipjack tuna and longtail tuna and Ray's bream (Pomfret) combined	10 fish
2	Bass groper	0 kilograms
3	Bigeye and yellowfin tuna combined	2 fish
4	Black oreodory	0 kilograms
5	Blue-eye trevalla and pink ling combined	50 kilograms
6	Blue grenadier	0 kilograms
7	Flathead, all species	200 kilograms
8	Gemfish	0 kilograms
9	Hapuku	0 kilograms
10	Jackass morwong	50 kilograms
11	John dory	30 kilograms
12	King dory	0 kilograms
13	Marlin (all species)	0 kilograms
14	Mirror dory	20 kilograms
15	Northern bluefin tuna	0 kilograms
16	Ocean perch	50 kilograms
17	Orange roughy	0 kilograms
18	Oxeye oreodory	0 kilograms
19	Redfish	50 kilograms
20	School whiting	200 kilograms
21	Silver trevally	200 kilograms
22	Smooth oreodory	0 kilograms
23	Southern bluefin tuna	0 kilograms
24	Spikey oreodory	0 kilograms
25	Swordfish	0 kilograms
26	Warehou, blue	100 kilograms
27	Warehou, silver	100 kilograms
28	Warty oreodory	0 kilograms
29	Yellow eye redfish	50 kilograms



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# **Fisheries (Inshore Trawl ByCatch Management) Notice 2023**

**Consultation Plan**

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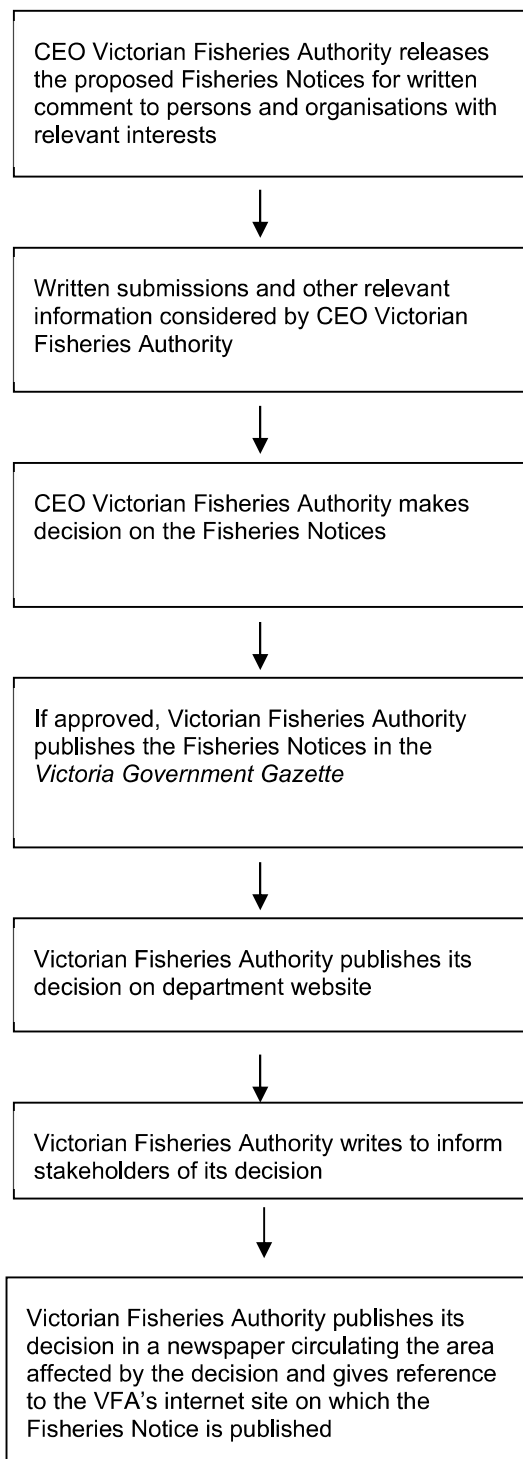
## PREAMBLE

**Any submissions received in relation to the consultation being conducted by the Victorian Fisheries Authority will be published on the Victorian Fisheries Authority website. In making a submission, unless the person making the submission indicates to the contrary, they will be consenting to their submission, including their name only, being published on the Victorian Fisheries Authority website for 90 days from the conclusion of the consultative process.**

### Closing date for submissions

The closing date for the receipt of submissions for consultation on this matter 17 November 2023.

## FLOW CHART OF CONSULTATION



## CONSULTATION PLAN

1	Consultation Title	Fisheries (Inshore Trawl Catch Management) Notice 2023
2	Representative group/s being consulted	<p><input checked="" type="checkbox"/> Recreational fishing peak body and key stakeholders (VRFish; Futurefish)</p> <p><input checked="" type="checkbox"/> Commercial wild catch peak body and industry (Seafood Industry Victoria, Trawl (Inshore) Fishery Access licence holders; Octopus Fishery Access Licence holders).</p> <p><input type="checkbox"/> Aquaculture</p> <p><input checked="" type="checkbox"/> Aboriginal communities (Victorian coastal Registered Aboriginal Parties: Gunditj Mirring Traditional Owners Aboriginal Corporation, Eastern Maar Aboriginal Corporation, Wadawurrung Traditional Owners Aboriginal Corporation, Bunurong Land Council Aboriginal Corporation, Gunaikurnai Land and Waters Aboriginal Corporation) for the Mornington Peninsula)</p> <p><input checked="" type="checkbox"/> Conservation interests: (Environment Victoria, Victorian National Parks Association)</p> <p>The proposed measures set out in the draft notice are particularly relevant Victorian Trawl (Inshore) Fishery Access licence holders. They are also relevant to Octopus Fishery Access Licence holders who are authorised to target the common octopus species in Victorian waters under dedicated management controls including a TAC and quota management system. The draft Fisheries Notice does not affect aquaculture operators.</p>
3	Managing Officer	Jo Klemke, Principal Policy Analyst
4	Target Start Date	17 October 2023
5	Target End Date	17 November 2023
6	Background/History	<p>The Trawl (Inshore) Fishery provides a diverse array of seafood for consumers to enjoy via local and interstate markets. It complements the larger Commonwealth South-East trawl fishery and is primarily a crustacean fishery for bugs, prawns and crabs. The non-specific nature of trawl fishing can result in other species including finfish and octopus being inadvertently taken as bycatch during operations targeting these crustaceans.</p> <p>Management of commercial trawl fishing is shared between Victoria and the Commonwealth, under arrangements agreed under the Offshore Constitutional Settlement framework (OCS). Commercial trawl fishing for a range of prawns, bugs and other crustaceans is primarily managed under Victorian law. Commercial trawl fishing for the majority of non-crustacean species is primarily managed under Commonwealth law. Bycatch of some finfish species and octopus is permitted in the Victorian Trawl (Inshore) Fishery as part of operations that target bug, crabs and prawns.</p> <p>The purpose of the proposed Fisheries Notice is to fix and enforce catch limits for certain bycatch species, including finfish and octopus, for the Trawl (Inshore) Fishery. This will (i) support sustainable management of octopus harvest in Victorian waters and (ii) give further effect to the OCS arrangements, ensuring that these are appropriately and accurately reflected in Victoria's fishing rules. Specifically, the proposed Fisheries Notice aims to:</p> <ol style="list-style-type: none"> <li>1. Implement an upper limit on total annual octopus bycatch across all licences, and a daily limit for octopus bycatch and possession under each licence in the Trawl (Inshore) fishery.</li> </ol> <p>This will help ensure that octopus is not targeted under Trawl (Inshore) Fisheries Access licences and support sustainable management of octopus take across Trawl (Inshore) and Octopus Fishery Access Licence Classes.</p> <ol style="list-style-type: none"> <li>2. Clarify the species-specific daily bycatch limits and combined daily bycatch limit of finfish that may be taken by Trawl (Inshore) Fishery Access Licence holders. This addresses an administrative error in the Victorian regulatory provisions that enact the possession limits agreed under the OCS framework.</li> </ol>
7	Relevant Statutory provision	Statutory consultation with stakeholders under Section 3A of the <i>Fisheries Act 1995</i> is required prior to the Minister or delegate making decisions related to Fisheries Notices.



8	Purpose/objectives/ scope	To seek comment on the draft Fisheries Notices.
9	Method	Consultation on draft documents is promoted via letters to the persons/groups noted in section 2 of this consultation plan and the Victorian Fisheries Authority website.
10	Communication Plan	Decisions regarding the Fisheries Notices will be communicated through notices published in the <i>Victoria Government Gazette</i> , a newspaper circulating the area affected by the decision and the departmental website.  Letters informing stakeholders of decisions will be sent to all persons/groups noted in section 2.
11	Information provision	Stakeholders will be provided with a copy of the draft Fisheries Notice.
12	Resources/advice (inc. purchase of advice)	Internal resources of the Victorian Fisheries Authority.
13	Output (documentation / implementation)	Letters to stakeholders; draft notice published on the VFA website.
14	Publication of results of consultation	Submissions received in relation to the consultation being conducted by the Victorian Fisheries Authority will be published on the Victorian Fisheries Authority website. In making a submission, unless the person making the submission indicates to the contrary, they will be consenting to their submission, including their name only, being published on the Victorian Fisheries Authority website for 90 days from the conclusion of the consultative process.

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**Consultation Plan prepared by**



Joanne Klemke  
Principal Policy Analyst  
Date: 13 / 10 / 23

**Approved/not approved**



Travis Dowling  
Chief Executive Officer, VFA  
Date: 13 / 10 / 23

# NOTES

## Principles for effective consultation

To the extent that it is practicable (refer Section 3A (1) of the *Fisheries Act 1995*), the following consultation principles apply to decisions made by the Minister, Secretary (or delegate), which affect the use and conservation of Victoria's fisheries resources:

- (a) That the purpose of the consultation and the consultation process are clear, open, timely and transparent;
- (b) That the level of consultation reflects the likely impact of decisions on persons and fisheries resources;
- (c) That the consultation process is adequately resourced;
- (d) That the consultation process flexible and designed to take into account the number and type of persons and/or sector groups to be consulted and their ability to contribute to the process; and
- (e) That the consultation process should involve consideration of representative advice which represents the views and values of the persons represented from appropriate sector groups including:
  - Commercial wild-catch fishing
  - Recreational fishing
  - Aquaculture operators
  - Aboriginal fishers/communities
  - Conservation interests (as applicable)

The consultation process should consider expert advice from the most appropriate provider/s (as applicable) and any expert advice obtained during the consultation process should be made available to persons participating in the consultation process.

## Statutory consultation under Section 3A (2) of the Fisheries Act 1995

Matters that have previously required consultation in accordance with the *Fisheries Act 1995* (the Act) will continue to require consultation. These matters are now consolidated in the Act under Section 3A (2); these are:

- (a) a decision by the Minister to declare or amend a management plan under Part 3;
- (b) a decision by the Secretary to vary a class of fishery licence under section 54(1)(c);
- (c) a decision under section 54(1)(d) by the Secretary to vary or revoke a condition imposed by the Secretary, or to impose a new condition, on a class of fishery licence;

- (d) a decision by the Minister to give, revoke or amend a direction on matters relating to the management of fisheries or zones in a fishery under section 61;
- (e) a decision by the Minister to make, revoke or amend a quota order in relation to a fishery under section 64, 64A, 66C or 66D;
- (f) a decision by the Minister to make, revoke or amend an order declaring sub-zones in a quota fishery under section 64AB or 66E;
- (g) a decision by the Minister to appoint a person as a member of the Commercial Fisheries Licensing Panel under section 132(2)(c) or 132(2)(d);
- (h) a decision by the Minister to nominate a person to be appointed as a member of the Licensing Appeals Tribunal under section 135(2);
- (i) decisions relating to the making and content of regulations in respect of royalties and levies imposed in accordance with sections 150 and 151;
- (j) decisions by the Minister relating to priorities for the disbursement of funds that may be paid out of the Recreational Fishing Licence Trust Account under section 151B;
- (k) a decision by the Minister to make a fisheries notice under section 152(1).

## Statutory consultation NOT required

Statutory consultation is not required in relation to the following decisions—

- (a) decisions which are specific to an individual licence or permit, the holder of a licence or permit or a person acting on behalf of a holder of a licence or permit; and
- (b) reviewable decisions within the meaning of Section 137 of the *Fisheries Act 1995*.





ARRANGEMENT BETWEEN THE COMMONWEALTH AND STATE OF  
VICTORIA IN RELATION TO THE TRAWL FISHERY TO BE MANAGED  
UNDER STATE LAW IN WATERS RELEVANT TO VICTORIA

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the State of Victoria (the State) of the other part.

WHEREAS-

- (a) Part 5 of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act), which provides for co-operation with the States and Northern Territory in the management of fisheries, commenced on 3 February 1995 upon the ceasing to have effect of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (b) paragraph 72(b) of the Management Act provides that the Commonwealth may make an arrangement with a State with respect to a particular fishery in waters relevant to the State, not being a fishery to which an arrangement under section 71 applies, that the fishery (being a fishery wholly or partly in waters on the seaward side of the coastal waters of the State) is to be managed in accordance with the law of the State;
- (c) no arrangement has been entered into under section 71 of the Management Act with respect to the fishery for which this Arrangement provides;
- (d) subsection 74(1) of the Management Act provides that an arrangement under, inter alia, paragraph 72(b) is to be made by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (e) subsection 9H(1) of the *Fisheries Act 1968* (the State Act) empowers the State to make, in accordance with section 74 of the Management Act, an arrangement referred to in section 71 or 72 of the Management Act for the management of a particular fishery;
- (f) both the Commonwealth and the State are desirous of exercising their powers to make an Arrangement in relation to the fishery referred to in clause 2 of this Arrangement; and
- (g) it is intended that the Minister responsible for administering the Management Act and the Minister responsible for administering the State Act will agree in writing to the maximum quantity of fish, the subject of clause 2 and of clause 3 of this Arrangement, that may be taken by way of bycatch from time to time in accordance with a licence or other authority referred to in those clauses and on matters of mutual interest in relation to the fishery.

NOW THEREFORE, in pursuance of the Management Act and the State Act and of all other powers so enabling, it is mutually arranged as follows:

1. This Arrangement commences at 0.00 hours on 1 November 1997.



2. The fishery to which this Arrangement applies is all activities by way of fishing in all waters relevant to Victoria described in clause 4 of this Arrangement for the following when taken by the method known as trawling (including but not limited to board trawling, midwater or pelagic trawling and Danish seining):

(a) Bay bug	Family Scyllaridae
Eastern king prawn	<i>Penaeus plebejus</i>
Giant crab	<i>Pseudocarcinus gigas</i>
Sand crab	<i>Portunus pelagicus</i>
School prawn	<i>Metapenaeus macleayi</i>
(b) Abalone	Family Haliotidae
Rock lobster	Family Palinuridae

but not including the taking, by way of bycatch, of the fish referred to in paragraph (a) in accordance with a fishing concession granted by the Australian Fisheries Management Authority under the Management Act in respect of another fishery.

3. The fishery to which this arrangement applies also includes the taking, in all waters relevant to Victoria within the area described in clause 4 of this arrangement, of fish (other than the fish referred to in clause 2), by way of bycatch, in the exercise of a right conferred by a licence or other authority granted by the State in respect of the fishery described in clause 2, except for:

Billfish	Families Istiophoridae & Xiphiidae
Northern bluefin tuna	<i>Thunnus thynnus</i>
Southern bluefin tuna	<i>Thunnus maccoyii</i>

4. This Arrangement applies to the area of waters bounded by the line:
- (a) commencing at the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria;
  - (b) running south easterly along the geodesic toward a point of Latitude 37° 35' South, Longitude 150° 10' East to its intersection with a line parallel to and 3 nautical miles distant from the coastline at mean low water; and
  - (c) from there along that line to its intersection with the geodesic which is a continuation of the landward boundary between the States of New South Wales and Victoria; and
  - (d) from there south easterly along the geodesic to its intersection by the outer limit of the Australian fishing zone; and
  - (e) from there generally southerly along that outer limit to its intersection with the parallel of Latitude 39° 12' South; and

- (f) from there westerly along the parallel to its intersection by the meridian of Longitude 143° 40' East; and
- (g) from there southerly along the meridian to the parallel of Latitude 40° 00' South; and
- (h) from there westerly along the parallel to its intersection by the meridian of Longitude 140° 57.9' East; and
- (i) from there northerly along that meridian to its intersection with the coastline at mean low water; and
- (j) from there along the coastline of the State of Victoria at mean low water to the point of commencement;

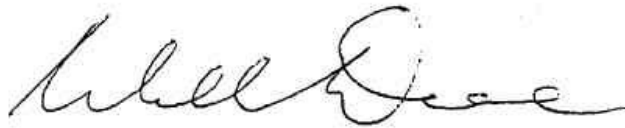
but does not include the following marine protected areas:

- (k) the area known as Wilsons Promontory Marine Reserve as described in Part 1 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (l) the area known as Wilsons Promontory Marine Park as described in Part 2 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (m) the area known as Bunurong Marine Park as described in Part 7 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (n) the area known as Harold Holt Marine Reserves (Point Nepean Reserve) as proclaimed in the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979); and
  - (o) the area known as Harold Holt Marine Reserves (Point Lonsdale Reserve) as proclaimed by the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979).
5. The fishery is to be managed in accordance with the law of Victoria.
  6. The origin of geographical coordinates used in this Arrangement is the Australian Geodetic Datum 1966 (AGD66).
  7. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.

8. Unless the contrary intention is indicated, words used in this Arrangement shall have the same meaning as in the Management Act.

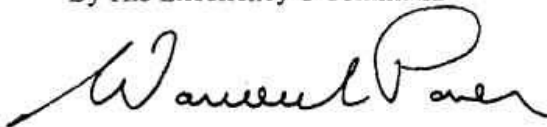
I, WILLIAM PATRICK DEANE, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsection 74(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated 29 October 1997



Governor-General

By His Excellency's Command



Minister for Resources and Energy

I, JAMES GOBBO, THE GOVERNOR of the State of Victoria, acting by and with the advice of the Premier in pursuance of the provisions of the *Fisheries Act 1968*, hereby approve this instrument.

Dated: 14 October 1997



Governor



ARRANGEMENT BETWEEN THE COMMONWEALTH AND STATE OF  
VICTORIA IN RELATION TO THE TRAWL FISHERY TO BE MANAGED  
UNDER COMMONWEALTH LAW IN WATERS RELEVANT TO VICTORIA

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the State of Victoria (the State) of the other part.

WHEREAS-

- (a) Part 5 of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act), which provides for co-operation with the States and Northern Territory in the management of fisheries, commenced on 3 February 1995 upon the ceasing to have effect of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (b) paragraph 72(a) of the Management Act provides that the Commonwealth may make an arrangement with a State with respect to a particular fishery in waters relevant to the State, not being a fishery to which an arrangement under section 71 applies, that the fishery (being a fishery wholly or partly in the coastal waters of the State) is to be managed in accordance with the law of the Commonwealth;
- (c) no arrangement has been entered into under section 71 of the Management Act with respect to the fishery for which this Arrangement provides;
- (d) subsection 74(1) of the Management Act provides that an arrangement under, inter alia, paragraph 72(a) is to be made by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (e) subsection 9H(1) of the *Fisheries Act 1968* (the State Act) empowers the State to make, in accordance with the Management Act, an arrangement referred to in section 71 or 72 of the Management Act for the management of a particular fishery;
- (f) both the Commonwealth and the State are desirous of exercising their powers to make an Arrangement in relation to the fishery referred to in clause 2 of this Arrangement; and
- (g) it is intended that the Minister responsible for administering the Management Act and the Minister responsible for administering the State Act will agree in writing to the maximum quantity of fish, the subject of clause 2 of this Arrangement, that may be taken by way of bycatch from time to time in accordance with a licence or other authority referred to in those clauses and on matters of mutual interest in relation to the fishery.

NOW THEREFORE, in pursuance of the Management Act and the State Act and of all other powers so enabling, it is mutually arranged as follows:

1. This arrangement commences at 0.00 hours on 1 November 1997.

2. The fishery to which this Arrangement applies is all activities by way of fishing in all waters relevant to Victoria described in clause 3 of this Arrangement for all species taken by the method known as trawling (including but not limited to board trawling, midwater or pelagic trawling and Danish seining) except for:
- |     |                    |                             |
|-----|--------------------|-----------------------------|
| (a) | Bay bug            | Family Scyllaridae          |
|     | Eastern king prawn | <i>Penaeus plebejus</i>     |
|     | Giant crab         | <i>Pseudocarcinus gigas</i> |
|     | Sand crab          | <i>Portunus pelagicus</i>   |
|     | School prawn       | <i>Metapenaeus macleayi</i> |
|     | Abalone            | Family Haliotidae           |
|     | Rock lobster       | Family Palinuridae          |
- (b) the taking, by way of bycatch, of the fish to which this Arrangement applies when taken by the method known as trawling in accordance with a licence or other authority granted by the State in respect of a fishery for the species listed in subclause 2(a).
3. This Arrangement applies to the area of waters bounded by the line:
- commencing at the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria;
  - running south easterly along the geodesic toward a point of Latitude 37° 35' South, Longitude 150° 10' East to its intersection with a line parallel to and 3 nautical miles distant from the coastline at mean low water; and
  - from there along that line to its intersection with the geodesic which is a continuation of the landward boundary between the States of New South Wales and Victoria; and
  - from there south easterly along the geodesic to its intersection by the outer limit of the Australian fishing zone; and
  - from there generally southerly along that outer limit to its intersection with the parallel of Latitude 39° 12' South; and
  - from there westerly along the parallel to its intersection by the meridian of Longitude 143° 40' East; and
  - from there southerly along the meridian to the parallel of Latitude 40° 00' South; and
  - from there westerly along the parallel to its intersection by the meridian of Longitude 140° 57.9' East; and

- (i) from there northerly along that meridian to its intersection with the coastline at mean low water; and
  - (j) from there along the coastline of the State of Victoria at mean low water to the point of commencement;  
but does not include the following marine protected areas:
    - (k) the area known as Wilsons Promontory Marine Reserve as described in Part 1 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
    - (l) the area known as Wilsons Promontory Marine Park as described in Part 2 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
    - (m) the area known as Bunurong Marine Park as described in Part 7 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
    - (n) the area known as Harold Holt Marine Reserves (Point Nepean Reserve) as proclaimed in the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979); and
    - (o) the area known as Harold Holt Marine Reserves (Point Lonsdale Reserve) as proclaimed by the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979).
4. The fishery is to be managed in accordance with the law of Commonwealth.
  5. The origin of geographical coordinates used in this Arrangement is the Australian Geodetic Datum 1966 (AGD66).
  6. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.
  7. Unless the contrary intention is indicated, words used in this Arrangement shall have the same meaning as in the Management Act.

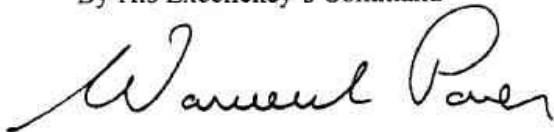
I, WILLIAM PATRICK DEANE, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsection 74(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated: *24 October* 1997



Governor-General


By His Excellency's Command



Minister for Resources and Energy

I, JAMES GOBBO, THE GOVERNOR of the State of Victoria, acting by and with the advice of the Premier in pursuance of the provisions of the *Fisheries Act 1968*, hereby approve this instrument.

Dated: *14 October* 1997



Governor

ARRANGEMENT BETWEEN THE COMMONWEALTH AND STATE OF  
VICTORIA IN RELATION TO THE FISHERY FOR FINFISH TO BE MANAGED  
UNDER STATE LAW IN WATERS RELEVANT TO VICTORIA

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the State of Victoria (the State) of the other part.

WHEREAS-

- (a) Part 5 of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act), which provides for co-operation with the States and Northern Territory in the management of fisheries, commenced on 3 February 1995 upon the ceasing to have effect of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (b) paragraph 72(b) of the Management Act provides that the Commonwealth may make an arrangement with a State with respect to a particular fishery in waters relevant to the State, not being a fishery to which an arrangement under section 71 applies, that the fishery (being a fishery wholly or partly in waters on the seaward side of the coastal waters of the State) is to be managed in accordance with the law of the State;
- (c) no arrangement has been entered into under section 71 of the Management Act with respect to the fishery for which this Arrangement provides;
- (d) subsection 74(1) of the Management Act provides that an arrangement under, inter alia, paragraph 72(b) is to be made by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (e) subsection 9H(1) of the *Fisheries Act 1968* (the State Act) empowers the State to make, in accordance with section 74 of the Management Act, an arrangement referred to in section 71 or 72 of the Management Act for the management of a particular fishery;
- (f) both the Commonwealth and the State are desirous of exercising their powers to make an Arrangement in relation to the fishery referred to in clause 2 of this Arrangement; and
- (g) it is intended that the Minister responsible for administering the Management Act and the Minister responsible for administering the State Act will agree in writing to the maximum quantity of fish, the subject of clause 2 and of clause 3 of this Arrangement, that may be taken by way of bycatch from time to time in accordance with a licence or other authority referred to in those clauses and on matters of mutual interest in relation to the fishery.

NOW THEREFORE, in pursuance of the Management Act and the State Act and of all other powers so enabling, it is mutually arranged as follows:

1. This Arrangement commences at 0.00 hours on 1 November 1997.

P023

2. The fishery to which this Arrangement applies is all activities by way of fishing in all waters relevant to Victoria described in clause 4 of this Arrangement for the following fish by all methods of fishing other than trawling (including but not limited to board trawling, midwater or pelagic trawling and Danish seining):

(a) Australian anchovy	<i>Engraulis australis</i>
Australian salmon	Genus <i>Arripis</i>
Barracouta	<i>Thyrisites atun</i>
Blue sprat	<i>Spratelloides robustus</i>
King George whiting	<i>Sillaginodes punctata</i>
Leatherjacket, all species	Family Monacanthidae
Pilchard	<i>Sardinops neopilchardus</i>
Snapper	<i>Pagrus auratus</i>
Sprat	<i>Clupea bassensis</i>
Striped trumpeter	<i>Latris lineata</i>
Wrasses, all species	Family Labridae
Yellowtail kingfish	<i>Seriola lalandi</i>

but not including the taking, by way of bycatch, of the fish referred to above in accordance with a fishing concession granted by the Australian Fisheries Management Authority under the Management Act in respect of another fishery nor all activities by way of fishing, in all waters relevant to Victoria described in clause 4 of this arrangement, for the genera/species *Emmelichthyes*, *Trachurus*, *Sardinops*, *Clupea*, *Engraulis* and *Scomber australasicus* for the purposes of bait by the holder of a fishing concession granted by AFMA in respect of tuna and tuna-like species with one or more of the following types of fishing gear:

- (i) Lampara net;
  - (ii) lift net;
  - (iii) small scale purse seine.
- |                           |                            |
|---------------------------|----------------------------|
| (b) Flathead, all species | Family Platycephalidae     |
| Silver trevally           | <i>Pseudocaranx dentex</i> |
| School whiting            | <i>Sillago flindersi</i>   |

up to a total combined whole weight per annum of 100 tonnes.

3. The fishery to which this arrangement applies also includes, in all waters relevant to Victoria described in clause 4 of this arrangement the taking of fish (other than the fish referred to in clause 2), by way of bycatch, in the exercise of a right conferred by a licence or other authority granted by the State in respect of the fishery described in clause 2, except for:

Black oreo	<i>Allocyttus niger</i>
Billfish	Families Istiophoridae & Xiphiidae

King dory	<i>Cyttus traversi</i>
Northern bluefin tuna	<i>Thunnus thynnus</i>
Orange roughy	<i>Hoplostethus atlanticus</i>
Ox-eye oreo	<i>Oreosoma atlanticum</i>
Smooth oreo	<i>Pseudocyttus maculatus</i>
Southern bluefin tuna	<i>Thunnus maccoyii</i>
Spiky oreo	<i>Neocyttus rhomboidalis</i>
Warty oreo	<i>Allocyttus verrucosus</i>

4. This Arrangement applies to the area of waters bounded by the line:
- (a) commencing at the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria;
  - (b) running south easterly along the geodesic toward a point of Latitude 37° 35' South, Longitude 150° 10' East to its intersection with a line parallel to and 3 nautical miles distant from the coastline at mean low water; and
  - (c) from there along that line to its intersection with the geodesic which is a continuation of the landward boundary between the States of New South Wales and Victoria; and
  - (d) from there south easterly along the geodesic to its intersection by the outer limit of the Australian fishing zone; and
  - (e) from there generally southerly along that outer limit to its intersection with the parallel of Latitude 39° 12' South; and
  - (f) from there westerly along the parallel to its intersection by the meridian of Longitude 143° 40' East; and
  - (g) from there southerly along the meridian to the parallel of Latitude 40° 00' South; and
  - (h) from there westerly along the parallel to its intersection by the meridian of Longitude 140° 57.9' East; and
  - (i) from there northerly along that meridian to its intersection with the coastline at mean low water; and
  - (j) from there along the coastline of the State of Victoria at mean low water to the point of commencement;
- but does not include the following marine protected areas:
- (k) the area known as Wilsons Promontory Marine Reserve as described in Part 1 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;

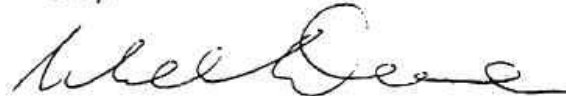
- (l) the area known as Wilsons Promontory Marine Park as described in Part 2 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (m) the area known as Bunurong Marine Park as described in Part 7 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (n) the area known as Harold Holt Marine Reserves (Point Nepean Reserve) as proclaimed in the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979); and
  - (o) the area known as Harold Holt Marine Reserves (Point Lonsdale Reserve) as proclaimed by the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979).
5. The fishery is to be managed in accordance with the law of Victoria.
  6. The origin of geographical coordinates used in this Arrangement is the Australian Geodetic Datum 1966 (AGD66).
  7. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.
  8. Unless the contrary intention is indicated, words used in this Arrangement shall have the same meaning as in the Management Act.



I, WILLIAM PATRICK DEANE, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsection 74(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

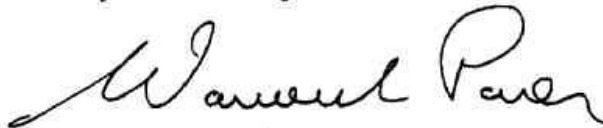
Dated 29 October

1997.



Governor-General

By His Excellency's Command



Minister for Resources and Energy

I, JAMES GOBBO, THE GOVERNOR of the State of Victoria, acting by and with the advice of the Premier in pursuance of the provisions of the *Fisheries Act 1968*, hereby approve this instrument.

Dated:

14 October

1997.



Governor

ARRANGEMENT BETWEEN THE COMMONWEALTH AND STATE OF  
VICTORIA IN RELATION TO THE FISHERY FOR FINFISH TO BE MANAGED  
UNDER COMMONWEALTH LAW IN WATERS RELEVANT TO VICTORIA

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the State of Victoria (the State) of the other part.

WHEREAS-

- (a) Part 5 of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act), which provides for co-operation with the States and Northern Territory in the management of fisheries, commenced on 3 February 1995 upon the ceasing to have effect of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (b) paragraph 72(a) of the Management Act provides that the Commonwealth may make an arrangement with a State with respect to a particular fishery in waters relevant to the State, not being a fishery to which an arrangement under section 71 applies, that the fishery (being a fishery wholly or partly in the coastal waters of the State) is to be managed in accordance with the law of the Commonwealth;
- (c) no arrangement has been entered into under section 71 of the Management Act with respect to the fishery for which this Arrangement provides;
- (d) subsection 74(1) of the Management Act provides that an arrangement under, inter alia, paragraph 72(a) is to be made by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (e) subsection 9H(1) of the *Fisheries Act 1968* (the State Act) empowers the State to make, in accordance with the Management Act, an arrangement referred to in section 71 or 72 of the Management Act for the management of a particular fishery;
- (f) both the Commonwealth and the State are desirous of exercising their powers to make an Arrangement in relation to the fishery referred to in clause 2 of this Arrangement; and
- (g) it is intended that the Minister responsible for administering the Management Act and the Minister responsible for administering the State Act will agree in writing to the maximum quantity of fish, the subject of clause 2 and of clause 3 of this Arrangement, that may be taken by way of bycatch from time to time in accordance with a licence or other authority referred to in those clauses and on matters of mutual interest in relation to the fishery.

NOW THEREFORE, in pursuance of the Management Act and the State Act and of all other powers so enabling, it is mutually arranged as follows:

1. This Arrangement commences at 0.00 hours on 1 November 1997.

2. The fishery to which this Arrangement applies is all activities by way of fishing other than trawling (including but not limited to board trawling, midwater or pelagic trawling and Danish seining) for the species listed in subclause 2(a) and all activities by way of fishing for commercial purposes other than trawling for the species listed in subclauses 2(b) and 2(c) in all waters relevant to Victoria within the area described in clause 4 of this Arrangement for the following fish:

(a)(i) Albacore tuna	<i>Thunnus alalunga</i>
Bigeye tuna	<i>Thunnus obesus</i>
Longtail tuna	<i>Thunnus tonggol</i>
Skipjack tuna	<i>Katsuwonus pelamis</i>
Yellowfin tuna	<i>Thunnus albacares</i>
(ii) Billfish	Families Istiophoridae & Xiphiidae
Northern bluefin tuna	<i>Thunnus thynnus</i>
Southern bluefin tuna	<i>Thunnus maccoyii</i>
(b)(i) Blue-eye trevalla	<i>Hyperoglyphe antarctica</i>
Blue warehou	<i>Seriolella brama</i>
Jackass morwong	<i>Nemadactylus macropterus</i>
John dory	<i>Zeus faber</i>
Mirror dory	<i>Zenopsis nebulosus</i>
Ocean perch	<i>Helicolenus spp</i>
Pink ling	<i>Genypterus blacodes</i>
Rays bream (or pomfret)	Family Bramidae
Redfish	<i>Centroberyx affinis</i>
Spotted warehou	<i>Seriolella punctata</i>
Yelloweye nannygai	<i>Centroberyx australis</i>
(ii) Bass	<i>Polyprion americanus</i>
Bass groper	<i>Polyprion moene</i>
Black oreo	<i>Allocyttus niger</i>
Blue grenadier	<i>Macruronus novaezelandiae</i>
Gemfish	<i>Rexea solandri</i>
Hapuku	<i>Polyprion oxygeneios</i>
King dory	<i>Cyttus traversi</i>
Orange roughy	<i>Hoplostethus atlanticus</i>
Ox-eye oreo	<i>Oreosoma atlanticum</i>
Smooth oreo	<i>Pseudocyttus maculatus</i>
Spiky oreo	<i>Neocyttus rhomboidalis</i>
Warty oreo	<i>Allocyttus verrucosus</i>
but not including the taking, by way of bycatch, of the fish referred to in subparagraph 2(a)(i) and 2(b)(i) above, in accordance with a licence or other authority granted by the State in respect of another fishery	
(c) Flathead, all species	Family Platycephalidae
Silver trevally	<i>Pseudocaranx dentex</i>

School whiting

*Sillago flindersi*

but not including the taking of 100 tonnes total combined whole weight, per annum, of the species referred to above by all persons in accordance with a licence or other authority granted by the State in respect of another fishery.

3. The fishery to which this arrangement applies also includes:
- (a) the taking, in all waters relevant to Victoria described in clause 4 of this arrangement, of fish (other than the fish referred to in clause 2), by way of bycatch, in the exercise of a right conferred by a fishing concession granted by the Australian Fisheries Management Authority under the Management Act in respect of the fishery described in clause 2, except for:
- |              |                     |
|--------------|---------------------|
| Abalone      | Family Haliotidae   |
| Rock lobster | Family Palinuridae. |
- (b) all activities by way of fishing in all waters relevant to Victoria described in clause 4 of this arrangement for the genera/species *Emmelichthyes*, *Trachurus*, *Sardinops*, *Clupea*, *Engraulis* and *Scomber australasicus* for the purposes of bait by the holder of a fishing concession granted by AFMA in respect of tuna and tuna-like species with one or more of the following types of fishing gear:
- (i) Lampara net;
- (ii) lift net;
- (iii) small scale purse seine.
4. This Arrangement applies to the area of waters bounded by the line:
- (a) commencing at the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria;
- (b) running south easterly along the geodesic toward a point of Latitude 37° 35' South, Longitude 150° 10' East to its intersection with a line parallel to and 3 nautical miles distant from the coastline at mean low water; and
- (c) from there along that line to its intersection with the geodesic which is a continuation of the landward boundary between the States of New South Wales and Victoria; and
- (d) from there south easterly along the geodesic to its intersection by the outer limit of the Australian fishing zone; and
- (e) from there generally southerly along that outer limit to its intersection with the parallel of Latitude 39° 12' South; and

- (f) from there westerly along the parallel to its intersection by the meridian of Longitude 143° 40' East; and
- (g) from there southerly along the meridian to the parallel of Latitude 40° 00' South; and
- (h) from there westerly along the parallel to its intersection by the meridian of Longitude 140° 57.9' East; and
- (i) from there northerly along that meridian to its intersection with the coastline at mean low water; and
- (j) from there along the coastline of the State of Victoria at mean low water to the point of commencement;

but does not include the following marine protected areas:

- (k) the area known as Wilsons Promontory Marine Reserve as described in Part 1 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (l) the area known as Wilsons Promontory Marine Park as described in Part 2 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (m) the area known as Bunurong Marine Park as described in Part 7 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (n) the area known as Harold Holt Marine Reserves (Point Nepean Reserve) as proclaimed in the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979); and
  - (o) the area known as Harold Holt Marine Reserves (Point Lonsdale Reserve) as proclaimed by the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979).
5. The fishery is to be managed in accordance with the law of the Commonwealth.
  6. The origin of geographical coordinates used in this Arrangement is the Australian Geodetic Datum 1966 (AGD66).
  7. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.

8. Unless the contrary intention is indicated, words used in this Arrangement shall have the same meaning as in the Management Act.

I, WILLIAM PATRICK DEANE, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsection 74(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated *29 October*

1997



Governor-General

By His Excellency's Command



Minister for Resources and Energy

I, JAMES GOBBO, THE GOVERNOR of the State of Victoria, acting by and with the advice of the Premier in pursuance of the provisions of the *Fisheries Act 1968*, hereby approve this instrument.

Dated: *14 October* 1997



Governor

ARRANGEMENT BETWEEN THE COMMONWEALTH AND STATE OF  
VICTORIA IN RELATION TO THE FISHERY FOR INVERTEBRATES TO BE  
MANAGED UNDER STATE LAW IN WATERS RELEVANT TO VICTORIA

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the State of Victoria (the State) of the other part.

WHEREAS-

- (a) Part 5 of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act), which provides for co-operation with the States and Northern Territory in the management of fisheries, commenced on 3 February 1995 upon the ceasing to have effect of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (b) paragraph 72(b) of the Management Act provides that the Commonwealth may make an arrangement with a State with respect to a particular fishery in waters relevant to the State, not being a fishery to which an arrangement under section 71 applies, that the fishery (being a fishery wholly or partly in waters on the seaward side of the coastal waters of the State) is to be managed in accordance with the law of the State;
- (c) no arrangement has been entered into under section 71 of the Management Act with respect to the fishery for which this Arrangement provides;
- (d) subsection 74(1) of the Management Act provides that an arrangement under, inter alia, paragraph 72(b) is to be made by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (e) subsection 9H(1) of the *Fisheries Act 1968* (the State Act) empowers the State to make, in accordance with section 74 of the Management Act, an arrangement referred to in section 71 or 72 of the Management Act for the management of a particular fishery;
- (f) both the Commonwealth and the State are desirous of exercising their powers to make an Arrangement in relation to the fishery referred to in clause 2 of this Arrangement; and
- (g) it is intended that the Minister responsible for administering the Management Act and the Minister responsible for administering the State Act will agree in writing to the maximum quantity of fish, the subject of clause 2 of this Arrangement, that may be taken by way of bycatch from time to time in accordance with a licence or other authority referred to in those clauses and on matters of mutual interest in relation to the fishery.

NOW THEREFORE, in pursuance of the Management Act and the State Act and of all other powers so enabling, it is mutually arranged as follows:

1. This Arrangement commences at 0.00 hours on 1 November 1997.

2. The fishery to which this Arrangement applies is all activities by way of fishing in all waters relevant to Victoria described in clause 4 of this Arrangement for all invertebrates of Phylum Crustacea, Phylum Mollusca and Phylum Echinodermata when taken by any fishing method other than trawling (including but not limited to board trawling, midwater or pelagic trawling and Danish seining) except for:

- (a) prawns of the following species:

Deepwater prawn	<i>Haliporoides cristatus</i>
Red prawn	<i>Aristeomorpha foliacea</i>
Royal red prawn	<i>Haliporoides sibogae</i>
Scarlet prawn	<i>Plesiopenaeus edwardsianus</i>

- (b) prawns of the genus *Aristeus*;

- (c) carids of the Family Pandalidae;

- (d) squid of the following species:

Arrow squid	<i>Nototodarus gouldi</i>
Red ocean squid	<i>Ommastrephes bartrami</i>
Southern ocean arrow squid	<i>Todarodes filippovae</i>
Yellowback squid	<i>Sthenoteuthis oualaniensis</i> ;

- (e) scallops Family Pectinidae;

but including fish referred to in paragraph (d) when taken, by way of bycatch, in the exercise of a right conferred by a licence or other authority granted by the State.

3. The fishery to which this arrangement applies excludes the taking, by way of bycatch, of all species of Phylum Crustacea, Phylum Mollusca and Phylum Echinodermata, (except for Abalone (Family Haliotidae), Rock lobster (Family Palinuridae) and Scallops (Family Pectinidae)), in the exercise of a right conferred by a fishing concession granted by the Australian Fisheries Management Authority under the Management Act in respect of another fishery.
4. This Arrangement applies to the area of waters bounded by the line:
- (a) commencing at the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria;
- (b) running south easterly along the geodesic toward a point of Latitude 37° 35' South, Longitude 150° 10' East to its intersection with a line parallel to and 3 nautical miles distant from the coastline at mean low water; and
- (c) from there along that line to its intersection with the geodesic which is a continuation of the landward boundary between the States of New South Wales and Victoria; and



- (d) from there south easterly along the geodesic to its intersection by the outer limit of the Australian fishing zone; and
- (e) from there generally southerly along that outer limit to its intersection with the parallel of Latitude 39° 12' South; and
- (f) from there westerly along the parallel to its intersection by the meridian of Longitude 143° 40' East; and
- (g) from there southerly along the meridian to the parallel of Latitude 40° 00' South; and
- (h) from there westerly along the parallel to its intersection by the meridian of Longitude 140° 57.9' East; and
- (i) from there northerly along that meridian to its intersection with the coastline at mean low water; and
- (j) from there along the coastline of the State of Victoria at mean low water to the point of commencement;


but does not include the following marine protected areas:

- (k) the area known as Wilsons Promontory Marine Reserve as described in Part 1 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (l) the area known as Wilsons Promontory Marine Park as described in Part 2 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (m) the area known as Bunurong Marine Park as described in Part 7 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (n) the area known as Harold Holt Marine Reserves (Point Nepean Reserve) as proclaimed in the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979); and
  - (o) the area known as Harold Holt Marine Reserves (Point Lonsdale Reserve) as proclaimed by the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979).
5. The fishery is to be managed in accordance with the law of Victoria.
  6. The origin of geographical coordinates used in this Arrangement is the Australian Geodetic Datum 1966 (AGD66).

7. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.
8. Unless the contrary intention is indicated, words used in this Arrangement shall have the same meaning as in the Management Act.

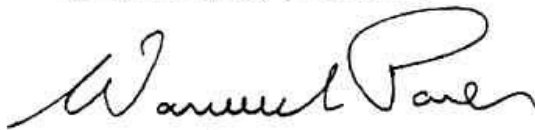
I. WILLIAM PATRICK DEANE, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsection 74(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated: 29 October 1997



William Patrick Deane  
Governor-General

By His Excellency's Command



Minister for Resources and Energy

I. JAMES GOBBO, THE GOVERNOR of the State of Victoria, acting by and with the advice of the Premier in pursuance of the provisions of the *Fisheries Act 1968*, hereby approve this instrument.

Dated: 14 October 1997



James Gobbo  
Governor

ARRANGEMENT BETWEEN THE COMMONWEALTH AND STATE OF VICTORIA IN RELATION TO THE FISHERY FOR ROYAL RED PRAWNS AND ASSOCIATED SPECIES TO BE MANAGED UNDER COMMONWEALTH LAW IN WATERS RELEVANT TO VICTORIA

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the State of Victoria (the State) of the other part.

WHEREAS-

- (a) Part 5 of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act), which provides for co-operation with the States and Northern Territory in the management of fisheries, commenced on 3 February 1995 upon the ceasing to have effect of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (b) paragraph 72(a) of the Management Act provides that the Commonwealth may make an arrangement with a State with respect to a particular fishery in waters relevant to the State, not being a fishery to which an arrangement under section 71 applies, that the fishery (being a fishery wholly or partly in the coastal waters of the State) is to be managed in accordance with the law of the Commonwealth;
- (c) no arrangement has been entered into under section 71 of the Management Act with respect to the fishery for which this Arrangement provides;
- (d) subsection 74(1) of the Management Act provides that an arrangement under, inter alia, paragraph 72(a) is to be made by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (e) subsection 9H(1) in Part 1A of the *Fisheries Act 1968* of Victoria (the State Act) provides that the State may in accordance with section 74 of the Management Act make an arrangement referred to in section 71 or 72 of that Act for the management of a particular fishery;
- (f) both the Commonwealth and the State are desirous of exercising their powers to make an Arrangement in relation to the fishery referred to in clause 2 of this Arrangement; and
- (g) it is intended that the Minister responsible for administering the Management Act and the Minister responsible for administering the State Act will agree in writing to the maximum quantity of fish, the subject of clause 2 and of clause 3 of this Arrangement, that may be taken by way of bycatch from time to time in accordance with a licence or other authority referred to in those clauses and on matters of mutual interest in relation to the fishery.

NOW THEREFORE, in pursuance of the Management Act and the State Act and of all other powers so enabling, it is mutually arranged as follows:

1. This arrangement commences at 0.00 hours on 1 November 1997.
2. The fishery to which this Arrangement applies is all activities by way of fishing in all waters relevant to Victoria described in clause 4 of this Arrangement for the following invertebrates by all methods of fishing other than trawling (including but not limited to board trawling, midwater or pelagic trawling and Danish seining):
  - (a) prawns of the following species:

Deepwater prawn	<i>Haliporoides cristatus</i>
Red prawn	<i>Aristeomorpha foliacea</i>
Royal red prawn	<i>Haliporoides sibogae</i>
Scarlet prawn	<i>Plesiopenaeus edwardsianus</i>
  - (b) prawns of the genus *Aristeus*; and
  - (c) carids of the Family Pandalidae.
3. The fishery to which this arrangement applies also includes the taking, in all waters relevant to Victoria described in clause 4 of this arrangement, of fish (other than the fish referred to in clause 2), by way of bycatch, in the exercise of a right conferred by a fishing concession granted by the Australian Fisheries Management Authority under the Management Act in respect of that part of the fishery described in clause 2, except for:

Abalone	Family Haliotidae
Rock lobster	Family Palinuridae.
4. This Arrangement applies to the area of waters bounded by the line:
  - (a) commencing at the intersection of the coastline at mean low water by the boundary between the States of New South Wales and Victoria;
  - (b) running south easterly along the geodesic toward a point of Latitude 37° 35' South, Longitude 150° 10' East to its intersection with a line parallel to and 3 nautical miles distant from the coastline at mean low water; and
  - (c) from there along that line to its intersection with the geodesic which is a continuation of the landward boundary between the States of New South Wales and Victoria; and
  - (d) from there south easterly along the geodesic to its intersection by the outer limit of the Australian fishing zone; and
  - (e) from there generally southerly along that outer limit to its intersection with the parallel of Latitude 39° 12' South; and
  - (f) from there westerly along the parallel to its intersection by the meridian of Longitude 143° 40' East; and

- (g) from there southerly along the meridian to the parallel of Latitude 40° 00' South; and
- (h) from there westerly along the parallel to its intersection by the meridian of Longitude 140° 57.9' East; and
- (i) from there northerly along that meridian to its intersection with the coastline at mean low water; and
- (j) from there along the coastline of the State of Victoria at mean low water to the point of commencement;

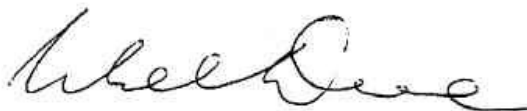
but does not include the following marine protected areas:

- (k) the area known as Wilsons Promontory Marine Reserve as described in Part 1 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (l) the area known as Wilsons Promontory Marine Park as described in Part 2 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (m) the area known as Bunurong Marine Park as described in Part 7 Schedule Four of the National Parks Act 1975 of Victoria as at the date of commencement of this Arrangement;
  - (n) the area known as Harold Holt Marine Reserves (Point Nepean Reserve) as proclaimed in the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979); and
  - (o) the area known as Harold Holt Marine Reserves (Point Lonsdale Reserve) as proclaimed by the Harold Holt Marine Reserves Proclamation 1979 (Victoria Government Gazette, No. 11, dated 7th February 1979).
5. The fishery is to be managed in accordance with the law of the Commonwealth.
  6. The origin of geographical coordinates used in this Arrangement is the Australian Geodetic Datum 1966 (AGD66).
  7. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.

8. Unless the contrary intention is indicated, words used in this Arrangement shall have the same meaning as in the Management Act.

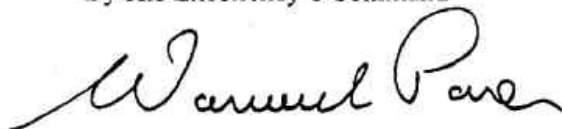
I, WILLIAM PATRICK DEANE, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsection 74(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated 29 October 1997.



Governor-General

By His Excellency's Command



Minister for Resources and Energy

I, JAMES GOBBO, THE GOVERNOR of the State of Victoria, in pursuance of the provisions of the *Fisheries Act 1968*, hereby approve this instrument.

Dated: 14 October 1997.



Governor

INSTRUMENT OF TERMINATION OF ARRANGEMENTS MADE BETWEEN THE  
COMMONWEALTH AND THE STATE OF VICTORIA

An INSTRUMENT approved by the Governor-General and the Governor of the State of Victoria.

## WHEREAS-

- (a) Arrangements were entered into under section 12H(4) of the *Fisheries Act 1952* of the Commonwealth between the Commonwealth and the State of Victoria in relation to the:
- (i) Abalone fishery published in the Commonwealth of Australia Gazette No. S109 on 14 April 1988;
  - (ii) Rock Lobster fishery published in the Commonwealth of Australia Gazette No. S109 on 14 April 1988;
  - (iii) Tuna fishery published in the Commonwealth of Australia Gazette No. S266 on 6 June 1986;
- (b) paragraph 7(4)(b) of the *Fisheries Legislation (Consequential Provisions) Act 1991* of the Commonwealth (the Consequential Provisions Act) provides that upon the commencement of Part 5 of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act), any Arrangement made with a State or Territory under subsection 12H (1) or (4) of the *Fisheries Act 1952* that was in force immediately before that commencement continues in force as if it had been made under Part 5 of the Management Act;
- (c) subsection 75(1) of the Management Act provides that an Arrangement under Division 3 of Part 5 of the Management Act may be terminated by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned; and
- (d) subsection 9H(2) in Part 1A of the *Fisheries Act 1968* of Victoria (the State Act) provides that an arrangement made by the State of Victoria may be terminated as provided by the Management Act.

NOW THEREFORE in pursuance of the Management Act and the State Act and of all other powers so enabling:

1. The Arrangements entered into between the Commonwealth and the State of Victoria referred to in paragraph (a) of the recitals to this Instrument are, pursuant to subsection 75(1) of the Management Act and subsection 9H(2) of the State Act, terminated.
2. This Instrument shall take effect from 0.00 hours on 1 November 1997.



I, WILLIAM PATRICK DEANE, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsection 75(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated 29 October 1997.



Governor-General


By His Excellency's command



Minister for Resources and Energy

I, JAMES GOBBO, THE GOVERNOR of the State of Victoria, acting by and with the advice of the Premier in pursuance of the provisions of the *Fisheries Act 1968*, hereby approve this instrument.

Dated: 23<sup>rd</sup> October 1997.



Governor

# Memorandum of Understanding

Between the Commonwealth of Australia, the Australian Fisheries Management Authority and the state of Victoria with respect to the fisheries in waters relevant to Victoria.

## Recitals:

1. The Parliament of the Commonwealth of Australia has enacted the *Fisheries Management Act 1991* (the Management Act) and the *Fisheries Administration Act 1991* (the Administration Act) and under the Administrative Arrangements the Minister for Resources and Energy has ministerial responsibility for both those Acts.
2. The Australian Fisheries Management Authority (AFMA) is a Commonwealth statutory authority established under the Administration Act and is responsible for the management of fisheries on behalf of the Commonwealth.
3. The Parliament of the State of Victoria has enacted the *Fisheries Act 1968* and the *Fisheries Act 1995* and the Minister for Agriculture and Resources has ministerial responsibility for those Acts which are administered by the Department of Natural Resources and Environment (DNRE).
4. The Commonwealth, AFMA and the State of Victoria wish to describe the working relationship between themselves, with regard to:
  - (a) cooperation in the management of fisheries resources in waters relevant to Victoria;
  - (b) the control of bycatch of species that would otherwise be managed under Victorian jurisdiction taken by fishers operating under a fishing concession granted by AFMA; and
  - (c) the control of bycatch of species that would otherwise be managed under Commonwealth jurisdiction taken by fishers operating under a fishing concession granted by DNRE.
5. The parties recognise the responsibilities, respect the integrity and acknowledge the professional capabilities of each of the parties and will afford such assistance and advice to each other as is necessary and is able to be provided to facilitate the effective

accomplishment of the stated objectives.

6. The parties acknowledge that this Memorandum supplements the OCS Arrangements for fisheries resources in waters relevant to Victoria and that any departure by either party from the terms or spirit of this Memorandum may fundamentally alter the overall management arrangements for these fisheries and trigger consideration by the other party of initiating either a withdrawal or variation of the OCS Arrangements.
7. The parties acknowledge that this Memorandum shall in no way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of the parties to exercise their functions under Commonwealth and Victorian law.

Now the parties hereby agree that they intend to apply the following arrangements to supplement the OCS Arrangements with respect to the management of fisheries in waters relevant to Victoria.

## Commencement

1. This Memorandum commences at 0.00 hours on 1 November 1997.

## Interpretation

1. (a) In this Memorandum:

"bycatch" means any fish or other aquatic life other than target species that is taken with the authorised fishing gear;

"ecologically sustainable development" means development carried out in a way that maintains biodiversity and the ecological processes on which fisheries resources depend and that maintains and improves the total quality of present and future life;

"fishing concession" means any State or Commonwealth statutory fishing right, permit, licence or authority allowing participation in a fishery;

"global TAC" means a total annual allowable catch set for the taking of a single stock by all fishing methods;

"OCS Arrangement" means an arrangement under section 72 of the *Fisheries Management Act 1991* and under subsection 9H(l) of the *Fisheries Act 1968* and the *Fisheries Act 1995*;

"possession limit" means the maximum number of, or weight of, bycatch fish which can be taken using the boat, or carried on board the boat, named on the fishing concession on any one trip;

"trip" means a voyage by a boat proceeding to and from, or through, the area of the fishery for the purposes of fishing;

"waters relevant to Victoria" has the same meaning as it has in the OCS arrangements.

1. (b) The reference source for scientific names used in the OCS Arrangements and this Memorandum is "The Fishes of Australia's South Coast", edited by MF Gomon, JCM Glover and RH Kuitert. Any subsequent changes made to the scientific names for species will not invalidate the Arrangements.

## Legislation

1. This Memorandum is to be read in conjunction with:

(a) Commonwealth and Victorian legislation, all subordinate legislation and any successor legislation or instruments of legislation, relating to the definition, administration or management of the marine resources in waters relevant to Victoria, including

*Fisheries Management Act 1991 (Commonwealth)*

*Fisheries Administration Act 1991 (Commonwealth)*

*Fisheries Act 1968 (Victoria)*

*Fisheries Act 1995 (Victoria)*

(b) the OCS Arrangement made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the trawl fishery to be managed under State law;

(c) the OCS Arrangement made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the trawl fishery to be managed under Commonwealth law;

(d) the OCS Arrangement made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the fishery for invertebrates to be managed under State law;

(e) the OCS Arrangement made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the fishery for finfish to be managed under State law;

(f) the OCS Arrangement made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the fishery for finfish to be managed under Commonwealth law;

(g) the OCS Arrangement made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the fishery for finfish to be managed under Commonwealth law;

the State of Victoria in relation to the fishery for royal red prawns and associated species to be managed under Commonwealth law.

## Objectives

1. The objective of this Memorandum is to support the OCS arrangements referred to in paragraph 3 by:
  - (a) providing a mechanism for the Minister responsible for administering the Management Act and the Minister responsible for administering the State Act to agree in writing to the maximum quantity of fish that may be taken by way of bycatch from time to time in accordance with a licence or other authority in relation to a fishery;
  - (b) providing a mechanism for cooperation in the management of the fisheries resources in waters relevant to Victoria having regard to the principles of ecologically sustainable development and the management of bycatch taken in conjunction with target fishing in those waters;
  - (c) establishing mutually agreed arrangements for the management of certain fisheries;
  - (d) recognising the importance of fisheries resources to the parties, including existing fisheries and developing fisheries and their management arrangements;
  - (e) recognising the value of cooperation between the parties in ecologically sustainable development of fisheries resources; and
  - (f) ensuring individual fishers in a fishery, who come under the other party's jurisdiction as a result of the OCS arrangements, are not treated differently from other fishers in that fishery who were not affected by the arrangements.

## Obligations of the Parties

1. In pursuit of the objectives of this Memorandum, and in pursuit of the statutory objectives of each party, the parties undertake to:
  - (a) make available information, in an appropriate form, related to fisheries of mutual interest including:
    - fishery catch and effort data including data pertaining to bycatch;
    - the results of scientific research including ecological studies, population dynamics, stock distribution, abundance and assessment of sustainable yield;
    - monitoring and surveillance systems for fishing activities in waters relevant to the State of Victoria;

- economics, marketing, gear technology and other studies relating to fishing activities in waters relevant to the State of Victoria;
- proposed management regimes for existing and developing fisheries;

(b) cooperate on monitoring and re-assessment of bycatch levels;

(c) cooperate and exchange information on technological developments in the fishing industry;

(d) cooperate in the identification of research, monitoring and surveillance programs;

(e) consult each other on any proposal which would have the effect of significantly expanding the effort in, or otherwise significantly impacting on the management of, a fishery of interest to the other party;

(f) consult each other and gain agreement prior to extending the area of operation of a fisher into an area of water which, prior to the commencement of the OCS Arrangements referred to in paragraph 3 to this Memorandum, was under the jurisdiction of the other party;

(g) adopt complementary management arrangements for shared stocks and consult on the development of management proposals which may impact on that part of the stock managed by the other party;

(h) develop arrangements for the determination of global TACs for shared jurisdiction stocks and for the apportionment of those TACs between different jurisdictions and

- implement management arrangements which seek to ensure that the commercial harvesting of stocks is kept within the agreed apportionment for their jurisdiction;



(i) take all actions possible to give effect to Victorian Government decisions regarding the establishment of marine protected areas and associated management arrangements in Victorian coastal waters;

j) involve each other in consultation over proposals related to marine protected areas in waters relevant to Victoria seaward of coastal waters.

## Commonwealth Possession Limits

1. In pursuit of the objectives of this Memorandum, AFMA undertakes to manage the following possession limits in waters relevant to Victoria and will require fishing concession holders to submit records of retained bycatch species as reasonably requested in writing by Victoria. AFMA also undertakes, where possible, to validate the records pertaining to retained bycatch.
2. CRUSTACEANS - Combined possession limits of 50 kg whole weight of all species of the Phylum Crustacea within which the following possession limits apply to the following species/species groupings:

Common Name	Species/Species Groupings	Possession Limit
Rock Lobster	Family Palinuridae	0 kg
Giant crab	<i>Pseudocarcinus gigas</i>	5 fish
School prawn	<i>Matapenaeus macleayi</i>	0 kg
Eastern king prawn	<i>Penaeus plebelus</i>	0 kg
Bay bug	Family Scyllaridae	10kg

1. MOLLUSCS - Combined possession limit of 50 kg whole weight of all species in the Phylum Mollusca within which the following possession limits apply to the following species/species groupings:

Common Name	Species/Species Groupings	Possession Limit

Abalone	Family Haliotidae	0 kg
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The Commonwealth has jurisdiction over Family Pectinidae (scallops) in the Bass Strait Central Zone and separate management arrangements apply to this fishery.

1. FINFISH - Combined possession limit of 200 kg whole weight of all species under State jurisdiction by virtue of the OCS arrangements made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the fishery for finfish to be managed under State law within which the following possession limits apply to the specified species/species groupings:

Common Name	Species/Species Groupings	Possession Limit
Australian anchovy	<i>Engraulis australis</i>	0 kg
Australian salmon	Genus <i>Arripis</i>	0 kg
Blue sprat	<i>Spratelloides robustus</i>	0 kg
King George whiting	<i>Sillaginodes punctata</i>	0 kg
Pilchard	<i>Sardinops neopilchardus</i>	0 kg
Snapper	<i>Pagrus auratus</i>	50 kg
Sprat	<i>Clupea bassensis</i>	0 kg
Striped trumpeter	<i>Latris lineate</i>	20 kg
Wrasses	Family Labridae	0 kg
Yellowtail kingfish	<i>Seriola lalandi</i>	10 fish

1. AFMA will place limits on each holder of a Commonwealth fishing concession specifying the possession limits such that it will be an offence under the legislation for the fisher to exceed those limits.



2. Notwithstanding the possession limits specified in paragraph 9 of this Memorandum, the holder of a Commonwealth fishing concession to take tuna may use the boat specified on that concession to take:
  - (i) unlimited amounts of the following genera/species *Emmelichthyes*, *Trachurus*, *Sardinops*, *Clupea*, *Scomber australasicus* and *Engraulis* for use as live bait for their tuna fishing operations on the boat used for taking the bait; and
  - (ii) up to three tonnes per trip in total of the following genera/species *Emmelichthyes*, *Trachurus*, *Sardinops*, *Clupea*, *Scomber australasicus* and *Engraulis* for use as dead bait for their tuna fishing operations on the boat used for taking the bait.
3. Catches of bait described above must be for the operator's own use as bait and not for sale or for tuna farm feed and can only be taken using one or more of the following fishing gears:
  - (i) Lampara net;
  - (ii) lift net; and
  - (iii) small scale purse seine.
4. It is intended that the gear to be used under Clause 12 is of a size consistent with the capture of the quantity of bait provided for in this Memorandum. Bait fishing gear may therefore be reviewed and become subject to restrictions on size by agreed amendment to this Memorandum
5. Possession limits other than those specified in this Memorandum, if any, will be determined by agreement in writing between the Victorian Minister for Agriculture and Resources, responsible for the *Fisheries Act 1995* and the *Fisheries Act 1968*, and the Commonwealth Minister responsible for the *Management Act* and specified on either the relevant State or Commonwealth fishing concession.
6. The Commonwealth possession limits set out in this Memorandum may be varied from time to time as agreed between parties.

## State Possession Limits

1. In pursuit of the objectives of this Memorandum, Victoria undertakes to manage the following possession limits in waters relevant to Victoria and will require fishing concession holders to submit records of retained bycatch species as reasonably requested in writing by AFMA. Victoria also undertakes, where possible, to validate the records pertaining to retained bycatch.
2. FINFISH - Combined possession limit of 400 kg whole weight of all species under Commonwealth jurisdiction by virtue of the OCS arrangements made in 1997 between the Commonwealth of Australia and the State of Victoria in relation to the fishery for finfish and the trawl fishery to be managed under Commonwealth law within which the following possession limits apply to the specified species/species groupings:

Common Name	Species/Species Groupings	Possession Limit
Albacore, skipjack and longtail tuna and Rays bream (Pomfret) combined	<i>Thunnus alalunga</i> , <i>Katsuwonus pelamis</i> , <i>Thunnus tonggol</i> and Family Bramidae	10 fish
Bass, bass groper and hapuku combined	<i>Polyprion americanus</i> , <i>P. moene</i> and <i>P. oxygeneios</i>	0 kg
Bigeye & yellowfin tuna combined	<i>Thunnus obesus</i> and <i>T. albacares</i>	2 fish
Blue-eye trevalla and Pink ling combined	<i>Hyperoglyphe antarctica</i> and <i>Genypterus blacodes</i>	50 kg
Gemfish	<i>Rexea solandri</i>	0 kg
Jackass morwong	<i>Nemadactylus macropterus</i>	50 kg
John dory	<i>Zeus faber</i>	30 kg
Mirror dory	<i>Zenopsis nebulosus</i>	20 kg
Southern bluefin tuna, northern bluefin tuna and Billfish	<i>Thunnus maccoyii</i> , <i>Thunnus thynnus</i> and families <i>Isiophoridae</i> and <i>Xiphiidae</i>	0 kg
Warehou, blue	<i>Seriolella brama</i>	100 kg
Warehou, spotted	<i>Seriolella punctata</i>	100 kg
Ocean perch	<i>Helicolenus percoides</i>	50 kg
King dory	<i>Cyttus traversi</i>	0 kg
Ox-eye oreo	<i>Oreosoma atlanticum</i>	0 kg

Smooth oreo	<i>Preudcyttus maculatus</i>	0 kg
Spiky oreo	<i>Neocyttus rhomboidalis</i>	0 kg
Warty oreo	<i>Allocyttus niger</i>	0 kg
Blue grenadier	<i>Macrunonus novaezelandiae</i>	0 kg
Black oreo	<i>Allocyttus niger</i>	0 kg
Orange roughy	<i>Hoplotethus atlanticus</i>	0 kg
*Flathead, all species	Family Platycephalidae	200 kg
* Silver trevally	<i>Pseudocaranx dentex</i>	200 kg
Yelloweye nannygai	<i>Centroberyx australis</i>	50 kg
Redfish	<i>Centroberyx affinis</i>	50 kg
*School whiting	<i>Sillago flindersi</i>	200 kg

Note: the above species marked with an asterisk\* only apply to a holder of a State fishing concession allowing the use of a trawl method.

1. DNRE will place limits on each holder of a State fishing concession specifying the possession limits such that It will be an offence under the legislation for the fisher to exceed those limits, noting that the intent of these limits is to allow incidental catch of these Commonwealth species by State licensed crustacean operators to be landed at historical levels.
2. The state possession limits set out in this Memorandum may be varied from time to time as agreed between parties.
3. In regard to that part of the flathead, silver trevally and school whiting fishery remaining under State jurisdiction by virtue of the OCS arrangements made in 1997 between the Commonwealth of Australia and the State of Victoria, DNRE will implement

management arrangements to limit the combined catch of these species to the specified level.

## **Licensing Arrangements**

1. Operators who hold entitlements in two jurisdictions to take the one species, and where a quota management system is in place in one of those jurisdictions, will not be entitled to bycatch provisions under the other jurisdiction for that species. The parties will take necessary action to remove bycatch entitlements in such situations.

## **Marine Protected Areas**

1. For Victorian coastal waters the parties agree to take all actions possible to give effect to Victorian Government decisions regarding the establishment of marine protected areas and associated management arrangements.
2. All parties agree to involve each other in consultation over proposals related to marine protected areas in waters relevant to Victoria seaward of coastal waters.

## **Recreational Fishing**

1. For fish other than tuna and tuna like species, the Commonwealth does not intend to exercise its powers under Commonwealth fisheries legislation to manage the recreational sector without prior consultation and agreement with Victoria on any proposed arrangements. In the absence of formal management arrangements for the recreational sector, Victoria may choose to manage this sector in waters adjacent to its coast in accordance with the State Act and any State constitutional limitations.
2. For tuna and tuna like species, the parties recognise that the Commonwealth is seeking to ensure effective management of recreational fishing in this fishery. However, prior to introducing management controls for the recreational sector of the fishery, the Commonwealth intends to consult with Victoria. The parties recognise that the recreational sector has legitimate interests in maintaining access to tuna and billfish. The parties will seek to agree on any proposed management arrangements for this sector.

## **Funding Arrangements**

1. Each party will bear its own costs in giving effect to this Memorandum, unless otherwise agreed.

# Amendment

1. This Memorandum may be varied by written instrument signed by the relevant Ministers and the Chairperson of AFMA.

# Revocation

1. This Memorandum may be revoked by mutual agreement with effect from such time as agreed by parties or either party may revoke this Memorandum by giving written notice to the other party that the party giving the notice desires the Memorandum to terminate upon a date specified in the notice, not being earlier than 6 months after the day on which the notice is given.

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Dated this 25 day of October 1997

Signed for and on behalf of the Commonwealth of Australia by the Senator the Hon. WARWICK PARER, Minister for Resources and Energy in the presence of:

Signed for and on behalf of the Australian Fisheries Management Authority by JAMES CARVEL MCCOLL, Chairperson in the presence of:

Signed for and on behalf of Victoria Australia by the Honourable PATRICK JOHN McNAMARA, Minister for Agriculture and Resources, in the presence of

We acknowledge the Traditional Aboriginal Owners of Country throughout Victoria and pay our respects to them, their connections to land, sea, and community. We pay our respects to their Elders past and present and future Traditional Owners.



We respect and welcome people of all backgrounds, genders, sexualities, abilities and cultures.

