

# SCUBA DIVERS FEDERATION of VICTORIA

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Ewan Flanagan  
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*Via email: ewan.flanagan@vfa.vic.gov.au*

## **Draft Victorian Rock Lobster Fisheries Management Plan 2023-2028**

Dear Ewan,

This is a submission from the SCUBA Divers Federation of Victoria (SDFV) about the Draft Victorian Rock Lobster Fisheries Management Plan 2023-2028 (DRLFMP). We provide our feedback and outline our objections to elements of the DRLFMP as part of the public consultation period identified in the Intention to Declare Notice.

### ***About us***

The SDFV is an affiliation of SCUBA diving clubs in Victoria and has been providing peak body representation of the interest and community values of recreational divers since 1964. Some recreational divers choose to fish for rock lobster and the largest cohort of recreational rock lobster fishers are SCUBA divers. The sustainability and management of the recreational rock lobster fishery is very important to our members.

The SDFV has been a direct stakeholder participant in the review and preparation of all previous Rock Lobster Fishery Management Plans. We have a strong record of advocacy and a reputation for supporting progressive, fair, and equitable management regimes.

### ***About the process***

The SDFV was initially a stakeholder participant in the Rock Lobster Fishery Management Plan Review Committee (Steering Committee). However, our direct membership of the Steering Committee was revoked for reasons we still do not understand. As a result, we have not had timely access to all Steering Committee material, and we have not been able to advocate the interests of recreational SCUBA divers who fish for rock lobster as strongly as we have done so in the past. That said, we were granted Observer status on numerous occasions for which we thank the VFA.

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## **About the DRLFMP**

We note the DRLFMP is largely akin to the current RLFMP. We acknowledge and endorse the sentiments in the risk analysis to the fishery (DRLFMP, page 22) and we concur that there are challenges well outside the remit of fisheries management. That said, we thought that the well-known issues in the Eastern Zone of the fishery would have identified the risk to the commercial Eastern Zone fishery as high.

We also note with a degree of relief that the DRLFMP specifies a time frame to achieve target biomass and exploitation rate objectives. We welcome the introduction of the 'ratchet' tables in the harvest strategy to better secure biomass and CPUE gains.

We think the DRLFMP is lacking in two important areas:

### *Product loss due to fishing technique*

We acknowledge the information in the DRLFMP in relation to bycatch and by-product, but there is virtually nothing of substance mentioned in relation to discard and target species loss prior to landing. In this modern era of ecological awareness and increasing demands for efficient (and sustainable) utilisation of natural resources, it would be informative to know what mass of rock lobster is discarded and lost to land 1kg of commercial product in the Victorian fishery. The literature indicates that in some jurisdictions the loss may be as high as 50%, meaning commercial fishers must lift 2kg of rock lobster biomass before gaining 1kg of landed product. We know that CPUE does not capture this type of product wastage, and we can see that the level may easily vary across zones and fisher behaviour. We know that for modeling purposes natural mortality is assumed to be 10%, but is there any adjustment for product wastage? Given the low stock biomass in general, we suspect there may be tipping point where the fishing method itself becomes harmful to the stock levels. We recommend that this sort of information be routinely surveyed and reported in the public domain.

### *Reliability of modelling*

While the DRLFMP is full of apparently 'precise' catch rate and catch number statistics, the harvest strategy, and the future predicted state of the fishery to underpin TAC determinations relies on many assumptions and computational modelling. A simple reading of the DRLFMP might lead to the conclusion that projections are exact, and therefore guaranteed. The reliability of the modelling and the confidence level of the trend predictions over the 20-year re-build period are not disclosed. We cannot tell the 'quality' of the modelling and therefore cannot be informed about the sensibility of the decisions being made based on the modelling. We recommend the reliability of the modelling outputs, and the underlining assumptions, are disclosed so that there can be an informed comparison of optimistic and more palatable outcomes, and precautionary decisions.

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We strongly disagree with:

1. The intention in the DRLFPM to bundle the First Nations catch of rock lobster with the recreational catch. We think this is inadequate and lacks a more progressive approach. We recommend that First Nation rock lobster fishers receive a separate 'allocation' of the natural resource. This would be consistent with the DRLFPM's acknowledgement that First Nation Victorians have a cultural right to rock lobster (DRLFPM page 6).
2. The intention to assign an annual total recreational catch (TARC) coupled to the CPUE-derived TACC. Literature warns that commercial CPUE is often a poor proxy for available biomass since it reflects fishing effort not solely associated with stock abundance. Using fishery-dependent CPUE as the only proxy for available biomass can mis-represent real declines in biomass simply due to the commercial and economic dynamics of the fishery (as is currently the case with the Eastern Zone).
  - We would have less objection if there were intentions to confirm biomass trends with fishery independent measures, but we understand there is no intention to do this because of cost. Indeed, we further understand there is to be no stock assessment of the Eastern Zone for the next two years. This creates greater concern in relation to accepting a TARC based on Eastern Zone CPUE where it is already known that the commercial CPUE is reflecting fisher behaviour more than biomass.
3. The intention to close recreational and First Nation fishing (*i.e.* the non-commercial sector) in either zone due to the commercial CPUE in that zone falling below a trigger point (DRLFPM, page 42). As already pointed out, commercial CPUE may not be a sufficiently good proxy of available biomass. Furthermore, by the very evidence detailed in the DRLFMP, the non-commercial catch of rock lobster is only a very small proportion of the commercial catch. If closure is warranted because economic and fishing efficiency factors deliver a low commercial CPUE, it is simply unfair to also remove recreational and Indigenous fishing completely. That said, we fully support closure of the fishery from all fishing if egg production is too low for sustainability, or fishery-independent assessments reveal available biomass at levels which would prompt best-practice fishery management to close the fishery from all types of fishing.
4. The way recreational 'allocation' has been derived and applied in the DRLFMP. There are several reasons for our dissent:
  - a) In our general understanding, resource allocation is a formalised approach to sharing of the 'common-property cake' using equity and benefit considerations. In this DRLFMP process, there has been no 'in principle' approach and no consideration of what a 'fair share' might look like.

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- The recreational 'allocation' as proposed in the DRLFMP is the amount of rock lobster taken in a selected year (2018/2019), expressed as the percentage of commercial catch. However, regardless of these percentages, the annual recreational catch (inclusive of the Indigenous catch) is capped in both zones to six tonnes into the future. **There is no principle behind this.**
- b) There is no reasoning as to why the TARC must reduce in fixed proportion to the TACC because of declining commercial CPUE, but the reverse does not apply – *i.e.* the TARC cannot rise above the applied annual recreational catch cap to maintain the same catch proportion when the TACC is increased. **There is no principled rationale behind this.**
- c) The concept of applying an actual, rather than notional 'recreational allocation', was introduced into the management plan review late in the process, after modelling of the 20-year TACC trajectories for each zone had been undertaken.
  - Conveniently, a constant six tonne annual non-commercial catch used in the modelling delivered the target rebuild over 20 years without requiring the commercial sector to reduce the current TACC. That is, the modelling required a fixed six tonne recreational (non-commercial) catch to deliver fishery status quo, going forward. To us, it appears that the proposed recreational cap has been used to ensure a no-pain outcome for the commercial fishery. **There is nothing equitable about this.**
- d) The recreational representation in the RLFMPSC process argued strongly for an 'allocation' to be expressed in a manner that separated the recreational catch from the annual TACC. This was for the community optics associated with allocation principles. The recreational representation:
  - agreed to the recreational harvest strategy as now described in the DRLFMP for the Eastern Zone only on the proviso that the recreational 'allocation' would be specified, as fixed benchmark, of 3% available biomass, (this value being converted from the 2018/2019 catch data), rather than 15.8% of the TACC. This proviso has not be observed in the DRLFMP.
  - did not agree with either the allocation or the catch cap in the Western Zone as listed in the DRLFMP. The recreational allocation in the Western Zone was not discussed by the RLFMPSC. Furthermore, the Western Zone is a much larger and healthier fishery, and without the recreational fishing pressure, compared to the Eastern Zone. The available biomass is already 97.5% assigned to the commercial Western Zone fishery and simply there is no need for a recreational cap at all in the Western Zone.

**In our view, these are not good faith outcomes and not consistent stakeholder engagement objectives.**

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We raise the following additional points:

- i. We note that the DRLFMP proposes action on soak time as a factor in fish mortality (DRLFMP, page 25). The current RLFMP introduced the requirement for commercial fishers to report the mortality of rock lobster held in coffs and wet wells, with the view to establish further management action depending on the mortality level. The DRLFMP indicates that the report of the death of 10 rock lobster in a coff or wet well automatically results in a reduction of the quota, based on the average zonal weight (DRLFMP, page 35). However, the dimension of this mortality across each zone is not mentioned in the DRLFMP, and as far as we know, is not generally reported. We think the level should be annually reported in the public-domain along with the other statistics of the fishery.
- ii. A recreational 'allocation' of 2.4% in the Western Zone TACC corresponds to something around 0.8% of the exploitable biomass in the Western Zone in 2018/2019. As a 'fair share' of the resource, 0.8% of available biomass is so low as to be in the 'noise' of the estimation calculations. That is, the effect of this level of catch is probably not discernable over a 20-year modelling period. We suggest a 0.8% share of the resource (to satisfy both recreational and First Nation rock lobster fishers), which is not to be increased under this plan, is plainly inadequate and outside community expectations. We strongly argue increasing the Western Zone TARC cap to eight tonne (3.2% of the TACC), if only for the more palatable view of around 1% of the available biomass.
- iii. In any event, the recreational 'allocation' proposed in the DRLFMP corresponds to about two rock lobster per year per registered rock lobster fisher (in the benchmark year). Compared the other fisheries of Southern Rock Lobster (WA, SA, and Tas), the proposed recreational 'allocation' (based on available 2020 data) is:
  - The lowest per head of population.
  - The lowest recreational to commercial catch ratio.
  - The lowest on a fisher to population basis.
  - The lowest per registered rock lobster fisher.
  - The lowest rock lobster mass per recreational fisher (save for WA).
  - The lowest rock lobster mass per registered rock lobster fisher
- iv. In both zones, the harvest strategy is to improve catch efficiency, and therefore profit. For the non-commercial fishery, no such reward is on the table. If the non-commercial sector does not fish to the six tonne cap every year, the fish left in the water are automatically consigned to help improving the commercial CPUE efficiency. That is, there is no carry-over provision for the non-commercial fishery to 'bank' the uncaught allocation.

Under the DRLFMP, there is no provision for the recreational caps to be temporarily raised to allow the recreational sector to catch their uncaught allocation from the previous year, or alternatively, temporarily increase the daily bag limit to improve recreational catch efficiency.

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Thus, the message to the non-commercial sector is fish it or lose it (to the commercial sector). **This is inequitable, and simply unfair.**

- v. We think the 20-year rebuild modelling period is nonsense. First, and foremost, a 20-year rebuild is way outside the timeframe urgency of those high-risk fishery threats identified in the DRLFMP. We point out that the only evidence of a sustained biomass rebuild occurred in the second RLFMP where the time scale was 5-10 years. We reiterate that we agree with the importance of applying a rebuild period and we note the DRFMP proposes to regularly review the harvest strategy and projection trajectories. To us, this means there is an expectation that re-modelling will be needed well before 20 years, and so the 20-year modelling was used solely to deliver a status quo picture, and thus avoid immediate readjustment of the current TACCs. We do hold that if re-modelling results in adjustments to the TACC levels, there is no logic that the TARC levels and catch caps should remain in the same proportion.
  
- vi. Figure 10 in the DRLFMP (DRLFMP, page 18) shows a significant reduction in the annual participation level of recreational fishers in the rock lobster fishery for both zones. We agree that COVID-19 restrictions would have contributed to reduced participation compared to the preceding years, but the decline has clearly continued beyond the COVID-19 era into the period where there was a switch to virtual tags and the use of the fishing app. We know recreational fishers were greatly frustrated by the onerous nature of the reporting detail and shortcomings in the operation of the first app, and presumably this resulted in dissuading many recreational fishers from 'bothering' to participate in the rock lobster fishery. The app problems were said to be fixed with the release of a new app in the latter part of 2023. However, it has been reported that, with the start of the 2023/2024 fishing year, the registration of recreational rock lobster fishers is very low (*ca* 250), and so the decline in participation appears to continue. The simple optic here is the possibility that the tagging and reporting management regime itself has disenfranchised recreational rock lobster fishers and driven them from the fishery. If this is so, it is a very undesirable situation and clearly inconsistent with one of the key stated objectives in the management of the fishery.

We offer the following for consideration:

We would have liked to be part of the development of a resource allocation model which was not based on trying to maintain the current commercial sector status quo. We see 'Allocation' is a statement of sharing common property resource. This is an 'in-principle' statement, and all three competing extraction sectors – Commercial, Recreational, and First Nations – have a specified 'slice of the pie'. We do not canvass ways to achieve this in this Submission, and we can accept it might need to be a target or aspirational goal to begin with.

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In this case, we see a difference between 'Allocation' as a proportion of a shared resource, and an annual TARC and catch caps which might be needed to manage the contemporary situation of the fishery. The two can co-exist.

We:-

1. Propose an 'Allocation' of 3% of available biomass in both zones to the recreational sector. This 'Recreational Allocation' is not linked to the commercial fishery. So, in the absence of a commercial fishery, the 'Recreational Allocation' would still be 3% of available biomass since it was derived from a principled approach.
  - To accommodate practical limitations, the recreational fishery would be managed under a separate annual TARC via a Harvest Strategy.
  - Depending on the biological circumstances of the fishery, the separate annual TARC in a given Harvest Strategy is not necessarily the 'Allocation'.
    - That is, the 'Recreational Allocation' need not be, nor need not be seen to be, the annual TARC.
  - The Harvest Strategy would have some mechanism to consider how uncaught TARC might be treated to give some reward for not fishing to the calculated limits and leaving fish in the water for the future.
2. Propose, similarly, a separate allocation for First Nations fishers - 1% of biomass, across both zones.

Again, the 'Indigenous Allocation' is an 'in-principal' statement of sharing common property natural resource. The Indigenous catch is managed to this Allocation and does not involve a separate annual total allowable Indigenous fisher catch. This Allocation is effectively a constant amount which reduces the available biomass for sharing between the commercial and recreational sector. In this way, First Nations people can always access their Indigenous Allocation, and choose to fish it or not – it will not be eaten away by recreational fishing or commercial fishing. If not fished, the unfished biomass contributes to the productivity of the stock.
3. We recognise that remodelling both zones with a significantly different TARC will cause much pain for the commercial sector. We do understand the pressures on the commercial sector. That said, we do want a fairer, more equitable approach to the 'Allocation' in the future, and we think Victoria's rock lobster fishery management is capable of more than just subscribing to the status quo.

In the case that there was an 'in-principle' Allocation' of 3% of the available biomass to the recreational sector and separated from the annual First Nations catch, and it was made clear that the 'Allocation' is not the same as the annual allowable catch (TARC), then we accept the Recreational Harvest Strategy structure as outlined in the DRLFMP with the following amendments:-

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## *Eastern Zone:*

- An annual TARC as tabulated in the Harvest Strategy in the DRLFMP
- A non-zero TARC when the TACC falls to zero (i.e. a recreational floor). We recommend one tonne.
- An annual catch cap of six tonnes in the Eastern Zone until the TACC reaches 32 tonnes, and then a sharing of any increase in the TAC in the same proportion as the deduction in TAC.

## *Western Zone:*

- A non-zero TARC when the TACC falls to zero (i.e. a recreational floor). We recommend one tonne.
- An annual catch cap of 8 tonnes until the TACC is increased, then a sharing of any increase in the TAC in the same proportion as the deduction in TAC.

The recreational catch arrangements will automatically be reviewed if there is any change to the Harvest Strategy or the currently proposed TACC assignments.

We trust this submission and our comments will be accepted as constructive and consultative and be considered in the spirit in which they are offered. We welcome further discussion on any element of our submission and await your feedback and explanations of reasons of those areas of this submission that cannot be adopted.

Thank you for the opportunity to comment.

A handwritten signature in blue ink, appearing to read "Tyson Smallman".

Tyson Smallman,  
Chairperson & Vice-President, Public Relations,  
SCUBA Divers Federation of Victoria