Fisheries Act 1995

FISHERIES (WESTERN PORT/PORT PHILLIP BAY FISHERY CATCH LIMITS) NOTICE 2023

I, Travis Dowling, Chief Executive Officer of the Victorian Fisheries Authority, as delegate of the Minister for Outdoor Recreation and having undertaken consultation in accordance with section 3A of the **Fisheries Act 1995** make the following Fisheries Notice:

TRAVIS DOWLING

Chief Executive Officer, Victorian Fisheries Authority

Date:16/03/2023

1. *Title*

This Fisheries Notice may be cited as the Fisheries (Western Port / Port Phillip Bay Fishery Catch Limits) Notice 2023.

2. *Objectives*

The objectives of this Fisheries Notice are to –

(a) fix and enforce catch limits for the taking of fish other than snapper;

(b) fix periods during which the taking, possession, landing or sale of certain species of fish is prohibited;

in the Western Port/Port Phillip Bay (Commercial) Fishery.

3. *Authorising provision*

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

4. *Commencement*

This Fisheries Notice comes into operation on the day it is published in the Government Gazette in accordance with the requirements of section 152(5) of the Act.

5. *Definitions*

(1) In this Fisheries Notice –

licensing year means a period from 1 April in any year to 31 March of the following year inclusive;

Port Phillip Bay has the same meaning as in the **Fisheries Regulations 2019;**

relevant access licence means a Western Port/Port Phillip Bay Fishery Access Licence;

restricted species means calamari, yellowtail kingfish, King George whiting and mulloway;

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

Western Port has the same meaning as in the **Fisheries Regulations 2019.**

(2) For the purposes of this Fisheries Notice, a person is ***engaged in recreational fishing*** only if the person –

(a) takes or attempts to take fish for a purpose other than sale; and

(b) holds a current recreational fishing licence or an exemption under Regulation 98 of the **Fisheries Regulations 2019;** and

(c) does not use or possess commercial fishing equipment while taking or attempting to take fish; and

(d) does not use a boat registered under Part 5 of the **Fisheries Regulations 2019** unless prior to commencing the trip –

(i) the person has notified the Victorian Fisheries Authority in the manner required by the Authority; and

(ii) makes an entry in the boat's log with the date, time and launching place / port of departure and the words "recreational trip", and a record with the date and time of completion of the trip; and

(iii) all commercial fishing equipment is removed from the boat.

6. ***Annual combined catch limits for fish other than snapper***

(1) For the purposes of the Act, the combined catch limit with respect to the taking of fish other than snapper, gummy shark or school shark by the holder of a relevant access licence in any licensing year is 2 tonnes.

(2) For the purposes of the Act, the combined catch limit with respect to the taking of gummy shark or school shark by the holder of a relevant access licence in any licensing year is 1 tonne (of one species or a combination of both species).

(3) In addition to the annual catch limits specified in this clause, the licence holder is also subject to any –

(a) daily and trip catch limit specified in the **Fisheries Regulations 2019** or a Fisheries Notice;

(b) species specific catch limit contained in clause 7 of this notice.

Note: It is an offence under section 68A of the Act to take or possess more fish than the catch limit for that species of fish. Various penalties apply.

7. ***Catch limit for restricted species***

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

(a) the taking of any restricted species of fish from Port Phillip Bay or Western Port; or

(b) the possession of any restricted species of fish in, on or next to Port Phillip Bay or Western Port –

by the holder of, or a person acting under, a relevant access licence is 0 fish.

(2) Sub-clause (1) does not apply to the holder of a relevant access licence, when engaged in recreational fishing.

Note: It is an offence under section 68A of the Act to take or possess more fish than the catch limit for that species of fish. Various penalties apply.

8. ***Prohibitions on restricted and specified species***

(1) For the purposes of section 67(1) of the Act, the landing or sale of any restricted species of fish by the holder of, or a person acting under, a relevant access licence is prohibited.

Note: Contravention of any prohibition under section 67(1) of the Act set out in this Notice is an offence under section 67(3) of the Act. A maximum penalty of 100 penalty units or 6 months imprisonment or both applies.

(2) For the purposes of section 67(1) of the Act, if the annual catch limit specified in clause 6(1) is reached or exceeded by the holder of a relevant licence –

(a) the possession of any fish other than snapper, gummy shark or school shark in or on Port Phillip Bay or Western Port; or

(b) the landing or sale of any fish other than snapper, gummy shark or school shark –

by the holder of, or a person acting under, that licence is prohibited.

(3) For the purposes of section 67(1) of the Act, if the annual catch limit specified in clause 6(2) is reached or exceeded by the holder of a relevant licence –

(a) the possession of gummy shark or school shark in or on Port Phillip Bay or Western Port; or

(b) the landing or sale of any gummy shark or school shark –

by the holder of, or a person acting under, that licence is prohibited.

(4) The prohibition in sub-clauses (2)(b) and (3)(b) applies at any time during the period of this notice unless the person proves that the fish were taken prior to the annual catch limit being reached or exceeded.

(5) Despite sub-clauses (1), (2) & (3), the holder of a relevant licence may take, possess or land fish specified in those sub-clauses, when engaged in recreational fishing**.**

9. ***Application to Fisheries Reserves***

For the purposes of section 152(4), this notice applies to all Fisheries Reserves.

10. ***Revocation***

(1) The Fisheries (Western Port/Port Phillip Bay Fishery Catch Limit) Notice 2022 gazetted on 15 March 2022 (No. S125), is revoked.

(2) Unless sooner revoked, this Fisheries Notice is automatically revoked twelve (12) months after the date on which it comes into operation.