



Mr Ewan Flanagan
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By email: ewan.flanagan@vfa.vic.gov.au

Dear Ewan,

RE: Submission on the Draft Victorian Rock Lobster Fishery Management Plan 2023-28

VRFish offers our congratulations to Victorian Fisheries Authority and thanks you for the opportunity to comment on the Draft Victorian Rock Lobster Fishery Management Plan 2023-2028 (the Draft Plan), an ambitious and increasingly conservative management regime for a publicly owned resource.

VRFish has consulted broadly across recreational fishing, recreational diving and through our expertise-based Dive Fisheries Reference Group (DFRG) comprising 10 members from across the recreational dive, recreational club, academic, commercial fishery and commercial dive sectors.

The recreational Southern Rock Lobster (*Jasus edwardsii*) fishery is a small but very important segment of recreational fishing in Victoria. Central to recreational fishing for Rock Lobster is quality diving opportunities.

The Draft Plan is as strict as it is precautionary and VRFish is confident it will alleviate concerns emerging such as accounting for impacts of climate change and ecological shifts.

VRFish wishes to compliment the hard work of VFA staff, the Chairs and members of the RLRAG and RLFMP Steering Committee. Brownlow votes must go to Dr Klaas Hartmann for his patience and ability to engage and convey complex scientific outcomes to our members.

The VRFish submission on the Draft Victorian Rock Lobster Fishery Management Plan 2023-28 follows.

Yours Sincerely,



Rob Loats
Chairperson
VRFish

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better, for everyone.**

1 General Comments on the Draft Plan

The competitive use of the Rock Lobster resource will be ably managed through the increased transparency measures outlined in The Draft Plan. VRFish will suggest more. The proposed formation of a Rock Lobster Management Advisory Committee (RLMAC) and an annual work plan is welcomed and acknowledged as necessary to better manage this valuable fishery against the emerging impacts of climate change and regime shifts into the future. VRFish has confidence in this Draft Plan and recognises the VFA’s precautionary approach with a primary focus of rebuilding the rock lobster stock over time.

VRFish Supported Dive Fishery Reference Group - Guiding Principles:

VRFish supports the Draft Plan in principle and requests some changes to the Draft Plan under the following guidance provided by our DFRG:

- ***To achieve an equitable allocation to the recreational sector.***
- ***Support the rebuild strategy.***
- ***Recreational allocation to have no measurable impact on the commercial sector.***

Table 1: VRFish supported changes recommended by the DFRG.

Specific Request	Comment
R1: Insert a review mechanism of Western Zone (WZ) capped TARC into the Draft Plan	<p><i>The Draft Plan allows a review of the Eastern Zone (EZ) capped TARC when the TACC reaches the capped TACC.</i></p> <ul style="list-style-type: none"> • <i>VRFish request a similar mechanism as available for the EZ that will provide a formal review of the Western Zone (WZ) capped TARC when the capped TACC is reached.</i> • <i>VRFish believe this will provide a method to review the TARC when the fishery has sufficiently improved to be able to support an increase for the recreational sector when the commercial sector receives an increase in catch share.</i>
R2: Increase capped WZ TARC to 8 tonnes	<p><i>The Draft Plan has currently capped the TARCs for both zones at 6t.</i></p> <ul style="list-style-type: none"> • <i>VRFish support the precautionary 6t Capped TARC in EZ. VRFish believe that the 6t capped TARC for WZ is unreasonably low.</i> • <i>As the fishery is subject to a rebuild strategy, VRFish are seeking a modest and sustainable 2t increase to the TARC for the Western Zone. The additional 2t to the capped TARC is equal to 0.25% available biomass and will have an</i>

	<p><i>immeasurable impact on both the rebuild strategy and the commercial sector.</i></p> <ul style="list-style-type: none"> • <i>Further, VRFish believe the WZ additional 2t could be important for the recreational fishery participants, especially if the EZ fishery continues to decline.</i>
<p>R3: Recreational Allocation (RA) of 3% of Available Biomass</p>	<p><i>Any Recreational Allocation is a percentage of the available biomass, that the recreational sector would be allowed to take on an annual basis, in the absence of a further restriction on catch (i.e. a cap).</i></p> <ul style="list-style-type: none"> • <i>The RA is effectively reserved for the recreational sector until the fishery is in a fit state to support an increase.</i> • <i>The Allocation of 3% of the Available Biomass would be capped at the proposed initial 8t cap in the WZ.</i>
<p>R4: The Recreational Sector will not close due to low CPUE</p>	<p><i>The Draft Plan proposes closing the recreational and commercial fishery when CPUE falls below 0.25.</i></p> <ul style="list-style-type: none"> • <i>Should the fishery (EZ) no longer be viable for commercial exploitation, VRFish believe the recreational fishery should remain due to negligible impact to Biomass/ stock rebuild as recreational take is a small component of total catch (i.e. well within margin of error in Biomass calculations).</i>

Recreational Rock Lobster Fishery

VRFish submits that the management and regulatory treatment of the recreational sector in The Draft Plan is inequitable, unjust and that compensation should be made available.

In line with VRFish policy on intersectoral allocation, where the recreational sector is managed in a way that restricts access to the benefit of another sector, compensation or offsets must be available. The current and proposed management regime and in particular, a very small recreational catch share that is capped and has been delivered by a poorly framed process delivering a ‘scrap off the table’ outcome, should be offset in the Draft Plan with considered compensation in the form acceptable to the recreational sector.

While compensation is not financial as recreational sector return of investment is experiential, recreational only areas, translocation and better seasons for other recreational dive fisheries should

be mentioned for investigation or consideration in the Draft Plan. The inclusion of a review mechanism for one zone and a hint at an economic contribution study are clearly insufficient.

The Recreational Sector Is Sharing the Hard Yards

VRFish submits that the data from the tagging program clearly shows that the current, estimated level of recreational catch is not sufficient to negatively impact the available biomass, and therefore the rebuild strategy and should grow over time via a clear framework and without impacting the commercial sector.

The data from the tagging program trial, now mandatory reporting, has surely settled the accounting regarding estimating recreational fishing mortality as a proportion of total catch. While there may remain management concern for the absolute accuracy of the recreational data collected, sufficient investigation of the data has been achieved to allow for a reliable estimate of the now recognised low recreational take and that compliance from the recreational sector is high.

VRFish submits that the concerns of a sudden explosion in recreational take or mass recreational fisher non-compliance are unfounded and have likely been part of the reason that the previous management regime focus was being detrimentally diverted.

McDonald (2021) found that *“the vast majority of fishers had reported catch consistently in both the fisher surveys and VicRLTag”* and that *“Overall, there were 266 lobsters in the Eastern Zone and 323 lobsters in the Western Zone reported by respondents in the survey that were not reported to VicRLTag. Although the majority of discrepancies were minor (small number of lobsters) and may be linked to recall issues rather than deliberate misreporting”*.

While noting the low number of active participants, when compared to other fishery-based mortality reported in either zone, even if a percentage is recreational catch, these numbers simply do not justify the investment of time and effort in further constraining the recreational take.

This is further reinforced by advice from a VRFish DFRG member, a 35-year dive instructor, that the skills required to locate, catch, and even handle a Southern Rock Lobster are not delivered with a PADI Open Water qualification and in fact take many, many dives to acquire. This is without overlooking the fact that recreational divers face access, weather and visibility factors when deciding to undertake or abandon a Rock Lobster fishing trip. Of further note was the estimate of annual registered participants in the novice category was similar to that found by McDonald (2021). This suggests that a gradual rather than sudden increase in recreational take would occur and also has implications for the Draft Plan delivering optimum management outcomes (*i.e. the Draft Plan Recreational HCR could have unintended consequences such as a race to fish*).

Unfortunately, the tagging program data also shows a marked decline in participation within the recreational Rock Lobster fishery. This is a key concern of VRFish, and we look to the Draft Plan to specifically address this issue.

VRFish advises that this participation reduction is not a function of a growing compliance issue, nor availability of Rock Lobster (*i.e. refer diver survey reported satisfaction levels' within EZ fishery in McDonald et al 2021*), but an unintended consequence of increasing regulatory burden and loss of trust in the regulator.

"With the introduction of a rock lobster fishing license in South Australia, participation has dropped by around 25%". Fisheries Co-management Council Victoria (December 2006).

Constraining recreational catch is a valid management measure but constraining participation is contrary to State Government policy, key objectives of the Fisheries Act 1995 and even the Victorian Fisheries Authority's business plan. If Victorian Fisheries Authority are to repair the growing loss of trust from those they regulate and manage the resource on behalf of (*i.e. The Draft Plan - Objective 5*), and therefore deliver the optimum management outcomes for the fishery, then The Draft Plan is the opportunity.

INTERSECTORAL ALLOCATION

VRFish submits that the Rock Lobster Fishery is a community owned resource, and as such, the recreational fishery must be managed with the same regard as the commercial fishery under the Objectives of the Fisheries Act 1995. This is especially required when a formal recreational allocation and capped Total Allowable Recreational Catch (TARC) are proposed.

It is sufficient to say that both VRFish and Scuba Divers Federation of Victoria (SDFV) are dissatisfied with both the process and outcome of the intersectoral allocation proposed in the Draft Plan. For guidance on VRFish support, the following is provided:

VRFish and SDFV Correspondence to Chair RLFMPSC (21st February 2023):

We take this opportunity to affirm the collective and uniform position taken by the recreational sector representatives at the meeting. A halving of the bag limit is unacceptable simply because there is no evidence for a such measure. For the avoidance of any doubt, we confirm full support, unity, and agreement among the recreational fishery sector to:

1. An allocation of 3% of the available biomass to the recreational sector
2. A hard closure of the recreational rock lobster fishery (via the recreational fishery app) once the recreational catch has reached the allocation in a fishing year.
3. For the Eastern Zone, a cap on the recreational catch at 6.15 tonnes (based on 3% of the 205 tonnes available biomass reported in 2018/2019) until the TACC for the Eastern Zone rises to 32 tonnes under the proposed commercial harvest strategy, at which time, the recreational catch cap will be reviewed.
4. For the first two years from the start of the adoption of the proposed commercial harvest strategy, the recreational allocation be set at 2.5% (instead of 3%) to provide a protective buffer while the app-based hard closure mechanism is implemented.

The recreational allocation and the necessity for any recreational catch caps in the Western Zone have not [been] discussed in Committee or separately with the recreational sector, in any detail.

2 Specific Comments on The Draft Plan

Section 1.1 Overview

VRFish submits that The Draft Plan would benefit from a statement on how the recreational allocation and TARC are arrived at, like the included commercial fishery TACC statement.

Noting this coverage in the following section *Catch estimation – Recreational Rock Lobster Reporting Program*, the Draft Plan may also benefit from expanding the Overview section to justify going from a trial to mandatory reporting and a statement on the benefits that recreational catch estimation will mean the ability to increase allocation/share of Rock Lobster fishery.

Section 1.2 Past Management Plans

Rock Lobster fishery management in Victoria has clearly come a long way since VRFish submitted to the RLFMP 2003 *“the proposal that TAC setting committee have wider community representation other than just commercial fishermen. Given that there is now a [notional] recreational TARC, it is appropriate that the committee has expertise of the recreational fishery”*.

VRFish submits that The Draft Plan would benefit from a statement on the previous implementation of a notional allocation for recreational sector, its function and performance.

While VRFish shares the concerns expressed in The Draft Plan regarding the third Plan’s harvest strategy not accounting for *‘an observed regime shift to lower levels of productivity within the fishery’* within the Eastern Zone (EZ), we feel the need to point out that under the current management plan EZ commercial operators are entitled to a 40t TACC, that the reduction to a 21t TACC was voluntary and that the view of Seafood Industry Victoria - Victorian Rock Lobster Committee submission on Southern Rock Lobster 2023/24 total allowable commercial catch (April 29, 2023) that *“Catch rates also improved in the Eastern Zone for the second consecutive year, along with a modest increase in the number of pre-recruit sized lobster”*. Further advice from individual EZ commercial operators is that the declining EZ catch trend is also a function of Covid measures, increased operational costs and market blockages and therefore should be more thoroughly considered in the Draft Plan.

Section 2.1 Description of the Fishery

Subsection 2.1.1 Area of the Fishery – Marine Parks

The Draft Plan provides *‘It is estimated that eight and 16 percent of the biomass in the Western and the Eastern Zones, respectively, existed in the marine national parks at their establishment (Hobday et al. 2005)’*. The Draft Plan may benefit with the inclusion of an update statement on the Parks Victoria led research in partnership with VFA and Deakin University on whether the percentages have changed.

Section 2.2 Overview of sectors using the resource

Subsection 2.2.2 Recreational Fishing Sector

Fishing for rock lobster is an important activity for many Victorians who most commonly collect them by snorkelling, diving using scuba or hookah, or with hoop nets. The Draft Plan may benefit from the

inclusion of a recreational fishery benefits statement including State Government policy on growing participation in recreational fishing.

Section 2.4 Economic characteristics of the Fishery

While the Draft Plan recognises recreational Rock Lobster fishing as *'an important activity for many Victorians'*, the Draft Plan may benefit from a clear statement regarding the economic and social benefits of recreational fishing activity. Despite no current economic contribution study of the recreational dive fishery, enough recent reporting exists such as Ernst and Young (2020), National Social and Economic Survey of Recreational Fishers 2019-2021, to suggest the economic and social contribution from the recreational rock lobster fishery is substantial.

The Draft Plan may further benefit from an action item to specifically include investigation of a recreational fishery economic study as well as a study to define recreational values in the fishery (*refer Shultz et al 2022*). This will be essential for a better-informed formal allocation process and seeking Recreational Fishing Licence Trust funding.

Section 2.5 Catch history in the recreational fishery

The Draft Plan provides *"The 2017 management plan highlighted a lack of current data on the level of recreational catch to verify if the notional estimates were accurate, and the absence of a direct measure of catch being a substantial impediment to understanding and managing for the total amount of rock lobster removed from the stock annually"*.

The Draft Plan may benefit from a statement on the previous studies estimating recreational Rock Lobster catch. *"The Victorian recreational rock lobster SCUBA landings for 1995/96 open season was estimated to be 9.7 tonnes or 21% of the commercial catch in the eastern zone and 11.6 tonnes or 2.3% of the commercial catch in the western zone"* (Hobday and Smith, 2000a: 200b).

VRFish also questions the Rock Lobster weights given in Table 5: *Annual recreational catch estimates and participation since the introduction of the recreational reporting program in 2017*.

Part 3 Framework for Managing the Fishery

Section 3.1 Victorian legislation and regulation

The Draft Plan provides *"All Australian governments, including Victoria, have made a commitment to manage fisheries according to the principles of ecologically sustainable development"*.

VRFish suggests that ESD is more than what is stated in the Draft Plan. Farmery et al (20019) discusses a much broader set of policy directives and provides a cogent warning with *"failure to explicitly account for the social aspects of the ecologically sustainable development (ESD) principles, as defined by the Australian National ESD Strategy (Commonwealth of Australia, 1992), in the policy framework for Commonwealth-managed fisheries has recently been acknowledged as causing unintended and unmanaged effects on recreational and traditional interests in these fisheries (AFMA, 2019)"*.

Subsection 3.1.2 Victorian policies and frameworks

Cost Recovery Framework

The Draft Plan may benefit from a statement further expanding the use of recreational fishing licence trust funds in providing substantial funding for compliance, enforcement and education as well as other funding such as rock lobster gauges and research.

Seismic Surveying Activity in Victorian Waters

The Draft Plan may benefit in a statement requesting a review of the current VFA policy and updating such to reflect new and emerging research on detrimental impacts (especially to Rock Lobster) and including offshore renewable energy projects.

Ecologically sustainable development risk assessment

The Draft Plan may benefit from the inclusion of Scuba Divers Federation of Victoria in the last sentence.

Part 4 Objectives, Strategies and Actions

Section 4.1 Fishery objectives and strategies

Objective & Strategy	VRFish Comment
<p>Objective 1: Ensure the sustainability of the rock lobster resource.</p> <ul style="list-style-type: none"> Strategies 1-4 	<p>Supported</p>
<p>Objective 2: Optimise community benefit of the rock lobster resource.</p> <ul style="list-style-type: none"> Strategies 5,7 	<p>Supported</p>
<p>Objective 2: Optimise community benefit of the rock lobster resource.</p> <ul style="list-style-type: none"> Strategy 6 - Ensure equitable resource sharing decisions that consider the whole Victorian 	<p>Strategy 6 will be difficult to achieve under a Recreational fishery Harvest Control Rule that delivers a perceived, non-transparent recreational allocation.</p> <p>The Draft Plan may benefit from a review of the statement in section 7.5 Resource Allocation that <i>“The commercial sector is allocated a TACC (total allowable commercial catch) consisting of the remainder of the TAC”</i>.</p> <p>The TARC in the currently proposed format equates to an allocation per registered participant of just over half a Rock Lobster per season. This is clearly inequitable regardless of further management measures such as a hard or soft cap.</p>
<p>Objective 2: Optimise community benefit of the rock lobster resource.</p>	<p>Strategy 8 will be difficult to achieve when no investigation, nor even reference to managing</p>

<ul style="list-style-type: none"> Strategy 8 - Optimise cultural, recreational and lifestyle benefits of fishing for those who participate in utilising the resource within the constraints of ecological sustainability 	the resource for recreation sector values per Shultz et al (2022).
Objective 3: Ensure best practice cost-effective and participatory management. <ul style="list-style-type: none"> Strategies 10-13 	Supported
Objective 4: Sustain the ecological integrity of the fishery ecosystem. <ul style="list-style-type: none"> Strategies 14-17 	Supported Noting Objective 4, Strategy 14 Action 14(iv), the Draft Plan would benefit from the inclusion of discussion of commercial catch-based mortality (discards, depredation, etc) and estimation and reporting could be included as a Strategy here or an Action item under Objective 1, Strategy 3.
Objective 5: Enhance community trust, respect and value of the fishery. <ul style="list-style-type: none"> Strategy 18 	Supported

Section 4.2 Actions

Action	VRFish Comment
1(i) Set the TACCs (and commercial and recreational input controls) in accordance with scientific recommendation from the RLRAG.	Noting the action following to form the RLMAC, the Draft Plan may benefit from including a statement on the RLMAC and its role in TACC and TARC setting (<i>Noting Table 8 also covers it</i>) and explain RLRAG role in recreational input control setting if there is to be a RLMAC.
Action 6(i) Review existing notional and actual cross-sector allocations and formally determine sectoral allocations	Refer previous comments on recreational sector allocation process and outcomes and suggest Draft plan may benefit from using the word “reallocation” here.
Objective 2: Optimise community benefit of the rock lobster resource. Strategy 8. Optimise cultural, recreational and lifestyle benefits of fishing for those who participate in utilising the resource within the constraints of ecological sustainability.	Refer previous comments on declining participation.

Action 8 (iii) Understand the value of rock lobster fishing to the Victorian community.	Refer previous comments regarding Economic contribution and recreational values studies.

[REDACTED]

[REDACTED]

[REDACTED]

Part 6 Monitoring and Assessment

Section 6.1 Data collection

The Draft Plan provides *“Undersize lobsters are tagged as part of the tag and recapture program and between 2,500 and 7,000 lobsters are tagged each year. When recaptured, the tagging data provides important information on the growth and movement of rock lobsters. Approximately 12 to 14 percent of tags have been returned, mostly by commercial fishers”*.

The Draft Plan may benefit from a statement on the use of tag and recapture program data in the investigation of data gathering for improved Stock Assessment reporting in lieu of reduced reporting in EZ (refer de Lestang et al. 2022).

Section 6.2 Stock assessment

The Draft Plan may be benefit in noting the reduced frequency of stock assessment proposed for the Eastern Zone.

Subsection 6.2.1 Catch rate standardisation and modelling

Modelling

The Draft Plan may benefit from the inclusion of statement on the use of recreational tagging program data in current and future modelling (*and even the benefits*).

Part 7 Rock Lobster Fishery Harvest Strategy

While there is general, if not grudging, support for the Harvest Strategy, many of our stakeholders have questioned if it is overly ambitious and therefore unnecessarily inequitable in its treatment of the recreational sector.

Section 7.5 Resource allocation

VRFish policy on intersectoral resource allocation and our position is outlined in previous sections. For pepper, the following is provided:

“In New Zealand, targeting economic efficiency through individual transferable quota (ITQ) rights based management in fishery policy has undermined ecological sustainability and public benefit, including equity in resource allocation” (Torkington, 2016).

Section 7.6 Recreational harvest control rule (HRC)

“It was noted the management advisory committee to be established could be used to review the notional allocations and recent data and provide management recommendations in the future.”
RLMPSC (July 2022)

The statements in the Draft Plan on RLMAC review and recommendation process contained in the Draft Plan, and more importantly the point number 3 statement, have given a confidence boost to VRFish in our evaluation of the Recreational HCR.

The commitments in the Draft Plan for transparency and inclusion in decision making further reinforce our ability to provide support for the Draft Plan and more importantly, communicate this to our stakeholders.

Further, the Draft Plan may benefit from the inclusion of a similar EZ statement regarding the Western Zone.

Lastly, a reminder of the SDFV Rock Lobster Management Plan response (2009) *“We welcome the endorsement of the resource allocation established in the first Rock Lobster Management Plan, and we support maintaining the notional TARC at the levels stated”* and *“all efforts by the recreational sector to raise daily bag limit in parallel to commercial sector TAC increases have failed”*.

End.

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