

Fisheries Act 1995

FISHERIES NOTICE 2019

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 68A and 152 of the Act:

Dated: 19/09/19



Travis Dowling
Chief Executive Officer

Victorian Fisheries Authority

FISHERIES (VICTORIAN PIP) NOTICE 2019

1. Title

This Notice may be cited as the Fisheries (Victorian Pipi) Notice 2019.

2. Objectives

The objective of this Notice is to manage Victorian pipi stocks sustainably by –

- (a) opening marine waters to commercial pipi harvest except for a specified closed area;
- (b) prohibiting the taking of pipi by Ocean Fishery Access Licences that do not have a recorded catch history of 1,000 kilograms or more between 1 January 2012 and 31 December 2016;
- (c) specifying catch limits per day for the taking of pipi by endorsed licence holders;
- (d) restricting the number of fishing days per calendar month;
- (e) fixing a minimum size limit for pipis taken under endorsed licences;
- (f) specifying reporting and other requirements to ensure compliance; and
- (g) revoking the Fisheries (Victorian Pipi) Notice 2018.

3. Authorising provision

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

4. Commencement

This Notice comes into operation on the day it is published in the *Victoria Government Gazette* and on the Victorian Fisheries Authority website.

5. Definitions

In this Fisheries Notice –

‘CEO’ means the Chief Executive Officer of the VFA;

‘closed waters’ means –

- (a) all marine waters located between longitude 38° 38.883’ S, 145° 43.850’ E and longitude 38° 43.866’ S, 145° 50.000’ E (Venus Bay Closed Area); and

- (b) the marine waters within a spatial management unit for which a determination has been made under clause 10 of this Fisheries Notice.

'Crown land' has the same meaning as in the **Conservation, Forests & Lands Act 1987**;

'designated access point' means a point as specified in Schedule 2.

'designated weighing area' means the nearest recognised car parking area adjacent to the designated access point.

'endorsed licence' means an Ocean Fishery Access Licence that has been endorsed in accordance with clause 6;

'endorsement notice' means is the notice issued by the CEO in accordance with clause 6;

'fishing day' means a day on which pipi are taken or attempted to be taken;

'landed' in relation to pipi means the place where the pipis are taken across the mean high water mark;

'next to' in relation to waters includes –

- (a) within 100 metres of those waters; or
- (b) on any Crown land adjacent to the waters; or
- (c) on any road or public car park near the waters.

'non-endorsed licence' means an Ocean Fishery Access Licence that has not been endorsed in accordance with clause 6;

'open waters' means all marine waters other than closed waters;

'pipi' means *Donax spp.*

'spatial management unit' means each area of Victorian marine waters between the coordinates specified in Column 2 of the Table in Schedule 1 under the identifier specified in Column 1 of the Table in Schedule 1 corresponding to that area.

'specified pipi details - prior' means for the purposes of clause 13 of this Fisheries Notice –

- (a) the number allocated by the VFA to identify the access licence;
- (b) the date and time of the proposed fishing activity;
- (c) the catch and effort grid zone where pipi are to be taken;
- (d) the designated access point for entry (if in Discovery Bay); and

'specified pipi details - post' means for the purposes of clause 17 of this Fisheries Notice –

- (a) the number allocated by the VFA to identify the access licence;
- (b) the date and time of the completed fishing activity;
- (c) the catch and effort grid zone where pipi were taken;
- (d) the designated access point for exit (if in Discovery Bay); and
- (e) the weight of pipis (kg) taken.

'specified pipi details - cancellation' means for the purposes of clause 18 of this Fisheries Notice -

- (a) the number allocated by the VFA to identify the access licence; and
- (b) the date and time of the cancellation of the proposed fishing activity.

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

'upper limit' for the spatial management unit specified in Column 1 of the Table in Schedule 1 means the amount of pipi specified in Column 3 of the Table in Schedule 1 corresponding to that spatial management unit;

'VFA' means the Victorian Fisheries Authority.

6. Endorsement Notice

- (1) The CEO may issue a notice to the holder of an eligible access licence endorsing the licence for the taking of pipi.
- (2) An *eligible access licence* means an Ocean Fishery Access Licence under which 1,000 kilograms or more pipi have been taken between 1 January 2012 and 31 December 2016 based on the daily catch and effort records completed by the licence holder in accordance with regulation 59 of the *Fisheries Regulations 2009* and maintained by the VFA.
- (3) For the purposes of sub-clause (2) any inaccurate records or any pipi taken unlawfully are to be excluded.
- (4) The holder of an endorsed licence must have a copy of the endorsement notice issued to the licence holder in their immediate possession at all times when taking, possessing or transporting pipi taken under the licence.
Penalty: 50 penalty units.

7. Taking of pipi prohibited by non-endorsed licence prohibited

For the purposes of sections 67 of the Act,

- (a) the taking of pipi; or
 - (b) the possession of pipi in, on or next to Victorian waters –
- by the holder of a non-endorsed licence, or a person acting under the licence, is prohibited.

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

8. Daily catch limit for access licences

- (1) For the purposes of the Act, the daily catch limit with respect to –
 - (a) the taking of pipi from Victorian waters; or
 - (b) the possession of pipi in, on or next to Victorian waters –by the holder of a non- endorsed licence, or a person acting under such a licence is zero pipi.
- (2) For the purposes of the Act, the daily catch limit with respect to –
 - (c) the taking of pipi from Victorian waters; or
 - (d) the possession of pipi in, on or next to Victorian waters –by the holder of an endorsed licence or a person acting under such a licence is 150 kilograms in weight.

Note: There are offences in Sections 68A and 68B of the Act relating to taking or possessing more fish of a species than the catch limit specified in a Fisheries Notice. Various penalties apply.

9. Prohibitions on commercial pipi fishing by endorsed licence

For the purposes of section 67 of the Act, the taking of pipi –

- (a) on more than eight (8) days in any one month; or
 - (b) between sunset on any day and sunrise on the following day; or
 - (c) on more than one trip on any one day –
- under an endorsed licence is prohibited.

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

10. Minimum size for pipis taken by commercial fishers

For the purposes of the Act, the minimum size with respect to –

- (a) the taking of pipi; and
- (b) the possession of pipi in, on or next to Victorian waters –

by the holder of an endorsed licence, or a person acting under the licence, is 35 millimetres (as measured across the widest dimension of the shell).

Notes: There are offences in sections 68A of the Act relating to taking or possessing fish of a species that are less than the minimum size specified for that species of fish in this Notice. Various penalties apply.

11. Determination that catch target reached

- (1) The CEO may determine that the total amount of pipi taken under endorsed licences from a spatial management unit has exceeded the upper limit.
- (2) Without limiting the generality of sub-clause (1), a determination may:
 - (a) specify one or more spatial management units;
 - (b) specify that it comes into effect on a particular date and time; and
 - (c) be varied or revoked at any time.
- (3) The CEO must ensure that a copy of the determination is sent to each holder of an endorsed licence as soon as possible after it is made.

12. Fishing in closed waters prohibited

- (1) For the purposes of sections 67 of the Act,
 - (a) the taking of pipi from closed waters; or
 - (b) the possession of pipi in, on or next to closed waters –by the holder of an endorsed licence, or a person acting under the licence, is prohibited.

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

- (2) Sub-clause (1)(b) does not apply to a person –
 - (c) travelling by the shortest practicable route from a point outside closed waters to another point outside closed waters; and
 - (d) the pipi is contained in a bag or container that is secured by a plastic cable tie or multiple cable ties in such a manner that pipi cannot be put into or removed from the bag or container without breaking it or the cable tie.

13. Prior Reporting requirements

An endorsed licence holder must ensure that the 'specified pipi details – prior' are provided to the VFA in the manner required by the VFA at least 1 hour before commencing a fishing activity in which pipis are targeted.

Penalty: 50 penalty units

14. Access points for Discovery Bay

- (1) An endorsed licence holder intending to take pipi from Discovery Bay must –
- (a) only enter the area; and
 - (b) ensure that any person acting under the licence only enters the area via a designated access point.

Penalty: 50 penalty units

- (2) An endorsed licence holder transporting pipi taken from Discovery Bay must –
- (a) only leave the area; and
 - (b) ensure that any person acting under the licence only leaves the area via a designated access point.

Penalty: 50 penalty units

15. Transfer of pipi in, on or next to Victorian waters prohibited

- (1) An endorsed licence holder or a person acting on behalf of an endorsed licence holder must not transfer pipi to another person in, on or next to Victorian waters.

Penalty 50 penalty units

- (2) Sub-clause (1) does not prevent the transfer of pipi to another person acting under the licence.

16. Requirement to carry daily catch record book

The holder of an endorsed licence must have the daily catch record book in their immediate possession or in a vehicle adjacent to the closest designated weighing area at all times when the licence holder or any person acting on behalf of the licence holder is taking or attempting to take pipis or is in possession of pipis.

Penalty: 50 penalty units

17. Post landing requirements

The holder of an endorsed licence must ensure that, no later than 20 minutes after landing and before any pipi taken under the licence are moved from the designated weighing area, placed in or on any motor vehicle, or delivered, consigned or given to another person –

- (1) The pipi are weighed; and
- (2) All details of the daily catch record are completed in accordance with regulation 59(1) of the *Fisheries Regulations 2009*; and
- (3) The 'specified pipi details – post' are provided to the VFA.

Penalty: 50 penalty units

18. Cancellation reporting requirements

The holder of an endorsed licence who decides to not proceed with any fishing activity after previously making a prior-fishing report must provide the 'specified pipi details – cancellation' to the VFA

19. Revocation

- (1) The Fisheries (Victorian Pipi) Notice 2018 is revoked.
- (2) Unless sooner revoked, this Notice will be automatically revoked 12 months after the day on which it comes into operation.

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 limits specified in this Notice do not apply.

Note: Penalties under this notice are set in accordance with section 152(7)(c) of the Fisheries Act which allow the imposition of penalties not exceeding 50 penalty units for a contravention of an offence under a fisheries notice.

SCHEDULE 1
SPATIAL MANAGEMENT UNITS

Table

Column 1	Column 2	Column 3
Spatial management unit name	Coordinates	Upper limit
From the South Australia/Victoria border to Sutton Rocks, Discovery Bay.	From 38° 03.383' S 140° 57.933' E To 38° 08.633' S 141° 10.900' E	10.0 tonnes
From Sutton Rocks, Discovery Bay, to the northern border of Discovery Bay Marine National Park.	From 38° 08.633' S 141° 10.900' E To 38° 20.000' S 141° 23.000' E	50.0 tonnes

Geographic Coordinate System – WGS 1984

SCHEDULE 2
DESIGNATED ACCESS POINTS FOR DISCOVERY BAY

- A. Nelson Ocean Beach Walking Track: 38° 04.002' S 141° 00.820' E
 B. Noble Rocks Walking Track: 38° 07.053' S 141° 07.809' E
 C. Swan Lake Access Track: 38° 13.408' S 141° 17.965' E

Geographic Coordinate System – WGS 1984

