

19 April 2018

Our Ref: Robert Cole:180586
Office: Warrnambool

Mr T Dowelling
Chief Executive Officer
Victorian Fisheries Authority
GPO Box 4509
MELBOURNE VIC 3000

Dear Mr Dowelling

Rock Lobster Fishery Management Plan – Response to Consultation on 2018 – 2019 Western Zone Total Allowable Commercial Catch (“TACC”)

We act on behalf of Gary Ryan and nine other licensed fishermen in the Western Zone, as detailed in the annexed schedule, all of whom are professional rock lobster fishermen with over 200 years' of combined experience working in the industry. Please treat this letter as an independent submission from each of them.

We advise that we are in receipt your letter dated 21 February 2018 (“**your Letter**”) enclosing the Victorian Fisheries Authority’s (“**VFA**”) proposed new “Victorian Rock Lobster Fishery Management Plan” (“**Management Plan**”).

Our clients have serious concerns as to the detrimental impact the proposed increase in the TACC for the Western Zone will have on rock lobster stocks and the future of the rock lobster fishing industry.

We are instructed and submit the following:

1. Pursuant to your online “Fisheries Overview” dated 16 November 2017 the primary objective of the Management Plan is “...to significantly rebuild the rock lobster stocks in both zones...”. You reaffirm this position in your Letter, stating “the primary objective of the strategy is to ensure that we continue to rebuild the rock lobster population by setting appropriately conservative TACCs”.
2. Decision Rule 2 detailed in Attachment 1 of your Letter requires that before any change in the TACC for the Western Zone, the pre-recruit index (“PRI”) must be **at or above 1.81** undersize lobster per pot lift before (“**the Decision Rule**”).
3. As the current PRI is 1.25 undersize lobster per pot lift, the Decision Rule is not met and it follows, based on your own “*harvest strategy*”, that there can be **no increase** in the 2018 – 2019 TACC for the Western Zone. Indeed, the Decision Rule has not been met for the past four (4) years, suggesting the rock lobster population requires further time to rebuild its stocks.
4. In spite of the Decision Rule not being met, you propose to increase the TACC for the Western Zone from 230 tonnes per annum to 245 tonnes per annum. You base this on the following two contentions:

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- a. *"the current TACC of 230 tonnes does not align with predetermined TACC levels in the harvest strategy table"* detailed in Table 2 of Attachment 1 to your Letter; and
 - b. 20.8 tonnes of rock lobster stock remain uncaught as a result of arrangements with Lattice Energy.
5. Your observation that *"the current TACC of 230 tonnes does not align with predetermined TACC levels in the harvest strategy table"* does not amount to a *"rationale"* for increasing the TACC. It suggests that the predetermined TACC levels are inconsistent with your Decision Rules and require review.
 6. It is irrelevant that 20.8 tonnes of rock lobster remain uncaught for the 2016/2017 period. Notwithstanding this, the PRI remains well below what is required by the Decision Rule.
 7. With consideration to the history of TACCs for each quota period in the Western Zone, we note that in the years 2010 to 2012, the TACC was reduced and set at 240 tonnes. In years 2012 to 2014 the TACC was subsequently increased to 260 tonnes. This was not sustained and it was necessary to reduce the TACC by 30 tonnes to the current TACC of 230 tonnes. The 2012 increase of 20 tonnes shows that any increases in the TACC for the Western Zone should be approached with caution.
 8. Over the last five (5) years there has been an average increase of 3.48% in catch rates for the Western Zone. The proposed increase from 230 tonnes to 245 tonnes per annum reflects an increase of 6.52%. This suggests that the proposed increase in the TACC is not sustainable and furthermore, that any increase is inconsistent with primary objective of the VFA which is to continue to rebuild the rock lobster population by *"setting appropriately conservative TACCs"*.
 9. Our clients contend that it is in the interest of all of the fishery that you err on the side of conservatism in setting the TACC. On a strict construction, it is submitted that due to the inconsistency with the *"harvest strategy"* table, the TACC should actually be reduced to 219 tonnes per annum to accord with both the predetermined levels and the Decision Rules. However, it is conceded that this may not be commercially acceptable. In the circumstances, our clients' preference is that the TACC should remain at its current level of 230 tonnes per annum. This will allow the fishery to regenerate before further consideration of the TACC for the Western Zone.

Please do not hesitate to contact us, should you require any further explanation.

Yours faithfully
MADDENS LAWYERS



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Copy to: Gary Ryan (on behalf of nine other Western Zone rock lobster licence holders)

SCHEDULE OF WESTERN ZONE ROCK LOBSTER FISHERMEN

1. Gary Ryan (Licence: RL 10)
2. Sandra Margret McLean (Licence: RL 22)
3. Zeb Johnston (Licence: RL 11)
4. Ron Jacobs (Licence: RL 22)
5. SWRL Pty Ltd (Licence: RL 22)
6. B Bowd (Licence: RL 11)
7. David Johnston (Licence: RL 11)
8. Bruce Carrison (Licence: RL 22)
9. Travis Murphy (Licence: RL 11)
10. M Bowd (Licence: RL 11)

