



Regulatory Impact Statement (RIS)

Fisheries (Recreational Abalone) Regulations 2004

General Summary

Fisheries Victoria (FV) is proposing to change the existing regulations in relation to recreational fishing of abalone in Central Victorian Waters. There are in fact, a suite of proposed changes to the regulations, which are all described in the RIS. Two of the proposed changes are outrageous and totally unacceptable.

The stated *primary* purpose of the proposed changes is to curb the activities of illegal abalone fishers masquerading as recreational fishers (*page 7*). The issue of a minority of fishers abusing the intent of the recreational regulations for abalone is causally linked to a general and widespread (perceived) claim of depletion of abalone stock on inshore reefs within central Victorian waters.

The RIS argues that the best approach to addressing the 'problem' and the best community outcome is to greatly restrict recreational access to the fish and the fishery (yet these are the community's own fish!)

The RIS document is poor and *misleading* in that it

- gives no tangible measure of the dimension or the extent of the stated problems.
 - There are only general claims of depleted abalone abundance. No data of any significance is presented.
 - There is only general description of scope and activities of illegal fishers abusing recreational regulations. No data of any significance is presented.
- fails to acknowledge that the (unsubstantiated) low abundance of abalone on inshore reefs may be either natural, or *a result of previous over-fishing by commercial fishers*, yet proposes the best way to address the *perceived* problem is by restricting recreational fishing.
 - In the defined zone, the commercial fishers remove about 600 tonnes annually and estimated 6-20 tonnes by recreational fishers. The focus on recreational fishers as a stock protection strategy is simply ludicrous.

The changes are *draconian* and *retrograde* in that they prescribe:-

- a **60% reduction** in the existing daily bag limit.
 - daily bag limit in the Central Victorian Waters to be reduced from 10 fish to 4 fish. All reef areas are included, not just the in-shore reefs.
- a **massive 92% reduction** in access to the fishery.
 - Access is to be reduced from 365 days to 30 days only, with the days to be nominated by FV.
- **NO** new restriction on commercial fishers of abalone.
 - Commercial fishers have no new access limitations and no new catch restrictions (for blacklip abalone), and can freely (over-) fish the very areas which this RIS states the new regulations are aimed at protecting.

The outcome of the regulations as proposed in the RIS will

- discourage legitimate recreational fishers from participating in the fishery
This is contrary to the intent and requirements of the *Fisheries Act 1995*.
- not address the illegal take of abalone in that it does nothing to quell the demand for illegal abalone
Those who choose to poach will still do so, and enforcement effort will need to remain the same.



RIS Fisheries (Recreational Abalone) Regulations 2004.

Briefing Paper

The proposed new regulations, numbered #1-#8 below, are considered on the basis of the information provided in the Regulatory Impact Statement (RIS) document.

#1 Reduced Abalone Bag and possession limits in Central Victorian Waters.

Interpretation:

Max. **possession** of 4 per fisher taken in Central Victorian Waters, being defined as all marine waters, including Port Phillip Bay, between the mouth of the Aire River (near Cape Otway) and Arch Rock in Venus Bay. The existing 10 fish bag/possession limit remains for all other areas.

The recreational catch of 4 fish per day may include up to two Greenlip abalone provided the Greenlip is not taken from Port Phillip Bay (as a consequence of proposed new regulation #3).

Considerations

- No similar or analogous restrictions on the commercial sector.
Issues of fairness since commercial fishers take vastly more abalone than recreational fishers.
- No scientific data or evidence provided in the RIS to substantiate claim of inner-reef depletion.
- The basis of the proposed 60% reduction in the daily bag/possession is NOT sufficiently established.
- The claimed stock protection imperative in the RIS is nonsensical, given commercial fishing activities are not constrained.
- The proposed regulation unnecessarily applies to all of the Central Victorian Waters area.
Management convenience includes the outer (deeper) reefs, but these are not at risk in RIS

Conclusions

The new bag/possession limit is mere pandering to the demands of the commercial sector and is designed to force recreational fishers from the fishery.

Not acceptable and not supported

#2 Introduction of Closed Fishing Season for Abalone.

Interpretation:

Access to the recreational fishery in Central Victorian Waters is to be reduced from all year-round to 30 days only, the days to be determined and published by Fisheries management.

Considerations

- No similar or analogous restrictions on the commercial sector.
Issues of equity of access.
- The basis of the 92% reduction in access to the fishery is NOT established or articulated at all.
Access will actually be less, given weather dependency
- The claimed stock protection imperative in the RIS is nonsensical, given commercial fishing activities in the specified areas are not constrained.
- The proposed regulation unnecessarily applies to all of the Central Victorian Waters area.
- The measure will be counter-productive to the stock protection imperative in that it will concentrate fishing effort over a short period.
If reefs are under pressure from recreational fishers, this regulation will concentrate that pressure.

Conclusions

Closure of the fishery to non-commercial fishers is mere pandering to the demands of the commercial sector and is designed to force recreational fishers from the fishery.

Not acceptable and not supported



#3 Greenlip Abalone Closure for Port Phillip Bay.

Interpretation:

Prohibition of non-commercial fishers in Central Victorian Waters to take greenlip abalone in Port Phillip Bay.

Considerations

- FV's bureaucratic incompetence and failure is further illustrated in that Victorian Abalone Management Plan (VAMP) has been in place for 3 years now, yet in this RIS, it is only proposed that a commercial Total Allowable Catch (TAC) of zero for greenlip will be introduced, sometime in the future. Yet recreational fishers have to take the hit now. Not good enough!
- In the proposed package of regulations, all fishers will be prohibited from harvesting Greenlip abalone (assuming Regulation 510(3) applies to all fishers).

Conclusions

Valid stock protection measure.

Acceptable

#4 Removal of Closed Season for Greenlip Abalone.

Interpretation:

The existing closed season for recreational greenlip abalone fishing (from 1 October to 31 March) is to be removed.

The existing closed season will be retained for commercial fishers in waters other than Port Phillip Bay.

Considerations

- This is largely consequential, given the proposed closed season for Central Victorian Waters, although the RIS obscenely promotes the removal as a significant beneficial concession to recreational fishers.

Conclusions

To be consistent with *intent*, the closed session for commercial fishing of greenlip should be extended to all year, until the VAMP requirements are implemented. Yet, commercial fishers are further favoured by retaining *status quo*.

Supported (but it is largely moot)

#5 Removal of Requirement to Cut the Meat of Recreationally Caught Abalone.

Interpretation:

The existing regulation which requires that the meat of recreationally-caught abalone be cut is to be removed.

Considerations

- The RIS states the requirement has been unsuccessful as a management tool, and hence an unnecessary regulation.
- The (previously ignored) overriding health issue can now be graciously accommodated.

Conclusions

Its about time!

Supported (and welcomed)



#6 Removal of Abalone Boat/Vehicle

Interpretation:

The existing regulation that prescribes a boat and/or vehicle limit of 50 abalone is to be removed.

Considerations

- RIS is equivocal. States existing regulation is unsuccessful as a management tool, and under the proposed new bag/possession limits, is unnecessary.
- If the regulation is not enforceable, the SDFV agrees that it should be removed.
- The SDFV does not support removal on the basis of 'concession' for acquiesce to the introduction of draconian bag/possession limits.

Conclusions

Deterrent value has not been considered in the RIS, but if it's not enforceable, get rid of it.

Conditionally Supported

#7 Amendment of Intertidal Shellfish Protection Regulations

Interpretation:

The existing prohibition of collection of abalone from intertidal waters (from high water mark to a water depth of 2 metres) of Port Phillip Bay and the central Victorian coast from Thompson Creek at Breamlea to Arch Rock in Venus Bay will be amended to allow collection consistent with the proposed new regulations #1 & #2

Considerations

- This regulation is inconsistent with the claimed stock protection imperative.
- The intertidal zone is protected from non-commercial fishing, and thus will be exposed to intense and concentrated pressure during the 30 nominated days.
- Commercial fishers remain exempt from the prohibition on fishing abalone in intertidal zone waters, and when fishing conditions allow, can deplete reef areas much more efficiently than occasional recreational fishers.

Conclusion

This does not make sense if protection of inner reef abalone stocks is the primary purpose of the package of new regulations.

Not supported

#8 Amendment to commercial Abalone Reporting Arrangements.

Interpretation:

As a matter of administrative convenience, the RIS proposes changes to procedural arrangements to the commercial fishery and 'other proposed miscellaneous amendments.' The changes are not articulated, but the proposed textual changes to specific clauses of the existing Fishing Regulation 1998 are provided in *Appendix 2* of the RIS document.

Considerations

- The RIS provides no detail as to the basis of the proposed changes, (or even what actual changes are), other than to provide an assurance that the changes do not provide any significant new regulatory burden or business costs. FV is in no position to expect the community to 'trust them'.
- It is typical of the arrogance shown by FV throughout the RIS, and indeed in the entire process surrounding this RIS, that the stakeholders and the community don't need to be told of the changes FV intend to make.
- The proposed regulations (whatever they may be) therefore DO NOT fulfil the requirements of the Subordinate Legislation Act 1994 as claimed in the Executive Summary (*page iii*).

Conclusion

It is not possible to support the proposed changes due to lack of written detail.

Not Supported