

Regulatory Impact Statement

**Fisheries
Regulations 2019**



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GLOSSARY

The Act	<i>Fisheries Act 1995</i>
The current Regulations	Fisheries Regulations 2009
The proposed Regulations	Fisheries Regulations 2019
AFMA	Australian Fisheries Management Authority
FRDC	Fisheries Research and Development Corporation
GFAV	Game Fishing Association of Victoria
GVP	Gross Value Production
NFA	Native Fish Australia
NPV	Net present value
RFL	Recreational Fishing Licence
RIS	Regulatory Impact Statement
SARC	Scrutiny of Acts and Regulations Committee
SIV	Seafood Industry Victoria
TAC	Total Allowable Catch
VFA	Victorian Fisheries Authority
VGR	Victorian Guide to Regulation
VMS	Vessel Monitoring System
VRFish	Victorian Recreational Fishing peak body

Summary

Purpose of this document

Regulatory Impact Statements (RIS) are prepared to explain the rationale for and impacts of proposed statutory rules. This RIS has been prepared for the Fisheries Regulations 2019 (“the proposed Regulations”), proposed to be made under the *Fisheries Act 1995* (“the Act”).

The RIS has been prepared for the Department of Transport (“the department”). A primary purpose of a RIS is to inform public consultation on the proposed Regulations. All submissions in relation to the proposed Regulations will be considered before the Minister for Fishing and Boating makes a final decision on whether to proceed with the proposed Regulations.

What’s being proposed?

The current Fisheries Regulations 2009 (“the current Regulations”) lapse and will no longer have effect after 2 February 2020. The proposed Regulations will replace them.

The objectives of the proposed Regulations are to:

- facilitate the licensing of recreational and commercial fishing and aquaculture industries in Victoria
- improve access for non-commercial use by traditional owners
- support the effective and efficient management of the state’s fish resources and a viable and sustainable aquaculture industry.

The Regulations do a number of important things:

- They define the fisheries and the fisheries licence classes, which provide the legal authority for recreational and commercial fishing and aquaculture production in Victoria. Without defining these licences in the Regulations, no recreational or commercial fishing or aquaculture could occur. Importantly, the regulations also define who is exempt from the requirement for a licence.
- They set controls on each type of fishing, including gear restrictions, catch limits, size limits, closed seasons, and restrictions for specific areas. They also define the number of licences permitted for some commercial fisheries. These are designed to ensure that permitting fishing does not lead to over-fishing (decreasing the sustainability of ongoing fish resources), damage to fishery habitats, unnecessary by-catch, conflicts with other users or a decline in the quality of fishing for participants. They also help to define responsible, ethical and safe fishing activities, protect animal welfare and share the resource across fishers.
- They outline a range of measures to allow the regulator (the Victorian Fisheries Authority, VFA) to monitor and enforce the management controls—for example by allowing use of equipment or fish sold to be traced to licence holders, and to collect data to inform resource management decisions. The regulator needs to be able to know what is being taken and have the ability to act against unauthorised activity wherever it can be best detected.

What options were considered?

The base case, against which options have been assessed, is the case of letting the current Regulations lapse without replacement. This would mean fisheries and licence classes are no longer defined, and therefore no recreational or commercial fishing or aquaculture would be able to be authorised under the Act.

To allow recreational and commercial fishing and aquaculture to occur—the primary purpose of the Act—regulations are needed to define the fisheries and licence classes. This then allows authorisation to be given under the Act. All feasible options must include defining the various fisheries and licences.

This RIS identifies three options with respect to the overall approach to how fisheries should be regulated.

- **Option 1:** Make regulations that allow recreational and commercial fishing, traditional owner use and aquaculture to occur, but within some defined restrictions. These restrictions are aimed at achieving the objectives of the Act, including the sustainability of fish resources, managing environmental impacts and avoiding conflict between commercial and recreational users. Restrictions on fishing activity include controlling when and where fish may be caught, what fish may be caught or grown, and what equipment can be used. In addition, there will be measures to support enforcement – including marking of equipment and boats, catch and effort reporting, production reporting, notifications of fishing activity and landing catch, boat registrations, fish receipts and dockets, disposal records, stock records, and use of vessel monitoring systems (VMS). **This is the proposed Regulations.**
- **Option 2:** Make regulations that allow recreational and commercial fishing, traditional owner use and aquaculture to occur, but within some defined restrictions. Restrictions on fishing activity include controlling when and where fish may be caught, what fish may be caught or grown, and what equipment can be used. However, unlike Option 1, there would be no other mandatory compliance activities required.
- **Option 3:** Make regulations that allow recreational and commercial fishing and aquaculture to occur without any limitations or controls. The amount of catch would be effectively unrestricted, as would the types of equipment that could be used, the size of fish able to be caught, and where and when fish could be caught, grown or translocated.

Option 1 is the same as the status quo in terms of the overall approach to regulating fishing and aquaculture, but includes a number of changes to the particular restrictions and controls that are proposed (see below).

What is the preferred option?

Option 1 is the preferred option, as it achieves the objectives of the Act while providing a more efficient approach to compliance. The benefits of this option are:

- It facilitates access to fish resources for commercial, recreational and traditional uses and allows aquaculture production. Each of these uses provides economic and social benefits.
- It provides for ecologically sustainable management of the state's fish resources and manages environmental impacts.

Table 1 below summarises the impacts of the three options considered above.

Table 1: Summary of impacts of options

Impact	Option 1	Option 2	Option 3
Recreational fishing activity	Direct expenditure on recreational fishing over \$2.3 billion per annum, with a <i>net</i> benefit ¹ of recreational fishing to the fishers of over \$600 per annum.	The same as Option 1, although increased risk of non-compliance of commercial fishers may have a negative impact on recreational fishing.	Similar or slightly more than Option 1—potential for some risks to sustainability of some species, and also some activity to be discouraged due to increased competition with commercial fishing.
Compliance burden on recreational fishers	Very minor, not quantified—see section 7.1 (page 62).	Nil	Nil
Commercial fishing and aquaculture activity	Value of production of over \$100 million per annum.	Similar to Option 1 if enforcement effort of VFA is increased. If enforcement activities are not increased, there would be an increase in commercial take in the short term, but negatively affect sustainability of catch in the longer term.	Potential for significant increase in commercial catch in the short term; reduced catch in the longer term as fisheries become unsustainable.
Compliance burden on commercial sector	Quantified costs of \$11.9 million over ten years (NPV). There are also some other costs not quantified (see Appendix E).	Potentially the same as Option 1. The compliance burden would be based on the licence holder's response to each obligation and their willingness to comply.	Nil
Aboriginal Victorians	All persons who identify as an Aboriginal Victorian or a Torres Strait Islander exempt from the need to obtain a recreational fishing licence.	All persons who identify as an Aboriginal Victorian or a Torres Strait Islander exempt from the need to obtain a recreational fishing licence.	All persons who identify as an Aboriginal Victorian or a Torres Strait Islander exempt from the need to obtain a recreational fishing licence.

¹ The net benefit was measured by the 'consumer surplus'—the additional value that is derived from undertaking fishing activities, over and above what has been paid for that fishing activity (including equipment, bait, travel, etc). It is the difference between what participants would be willing to pay to undertake an activity and what they actually pay.

Impact	Option 1	Option 2	Option 3
Cost to VFA of enforcing Regulations	Around \$13 million per year.	The estimated cost of enforcement would be around \$20 million. Also, significant additional resources would be needed to monitor the sustainability of fisheries, inform restocking and change catch limits.	Nil for enforcement.
Ecological sustainability	Effectively manages sustainability.	Potentially the same as Option 1. Sustainability could be compromised as compliance is based on each licence holder's response to the obligations and their willingness to comply.	Fish resources would become unsustainable.
Sharing of the resource	Controls over harvest and levels of take better understood.	Controls over harvest but limited understanding of take levels which could result in biases towards individual sectors.	No understanding of take levels or controls over harvest which could result in biases towards individual sectors.
By-catch	By-catch minimised through catch methodologies and controls.	Potentially the same as Option 1. Unnecessary by-catch could increase as compliance is based on each licence holder's response to the obligations and their willingness to comply.	Could result in high levels of by-catch.
Animal welfare and ethical take	Helps protect animal welfare and ensure ethical fishing practices.	Potentially the same as Option 1. Animal welfare and ethical fishing practices could be compromised as compliance is based on each licence holder's response to the obligations and their willingness to comply.	Could compromise animal welfare and result in unethical practices.

Option 1 is the preferred option, as it achieves the objectives of the Act while providing the more efficient approach to compliance.

Options 1 and 2 are preferred to Option 3, as Option 3 clearly leads to unsustainable fishing outcomes, increased conflict between recreational and commercial fishers, high levels of by-catch, and adverse outcomes in terms of animal welfare. Option 3 does not achieve the objectives of the Act.

Both Options 1 and 2 have the ability to provide better outcomes in terms of future sustainability, and avoid other negative impacts of unrestricted fishing. However:

- Option 2 has a much higher cost of ensuring compliance with the controls on fishing and aquaculture. The additional resource effort for VFA is around \$7 million per year (which would need to be recovered from industry through fees and levies), compared to Option 1 which imposes compliance costs on licence holders of around \$1.5 million a year.
- Despite the additional resource requirement for VFA enforcement under Option 2, there would likely be higher rates of non-compliance under Option 2 compared to Option 1.

The basis of these impacts is discussed in Chapter 7 (page 62). In particular, the estimate of the compliance burden on the commercial sector is set out in Appendix E. Stakeholders may wish to comment on whether each component of the compliance framework is reasonable, or whether there are more efficient or effective ways of achieving the objectives of the Act.

What has changed?

The proposed Regulations (Option 1) are largely the same as the current Regulations, although the structure of the Regulations has been revised to consolidate common processes and make it easier to find the requirements relevant to each licence type. Where feasible, changes that reduce the regulatory burden have been considered.

There are minor changes to the regulations that affect recreational fishing. Of the minor changes proposed, several relate to catch/bag limits for some species, and the use of some equipment. Also, a number of longstanding rules currently set out in Fisheries Notices are proposed to be incorporated into the Regulations. Proposed changes relevant to recreational fishers are outlined on page 13. The department considers that these changes will have minimal or no overall impact on recreational fishers or any other sector of the community, although some are likely to have an overall positive impact compared to the current Regulations.

It is proposed to exempt persons who identify as Aboriginal or Torres Strait Islander from the need to obtain an RFL. This will reduce the current administrative burden.

A number of important changes are proposed for commercial fisheries. The most significant changes are:

- Encouraging improved ongoing development, stewardship and investment by creating a number of new licence classes and removing redundant classes. The new classes proposed are a Pipi Fishery Access Licence, Banded Morwong Fishery Access Licence and Octopus Fishery Access Licence. The removed classes are Purse Seine (Port Phillip Bay) Fishery Access Licence, Port Phillip Bay (Mussel Bait) Fishery Access Licence, and the scallop fish receiver licence class. See page 29 for further information on these changes.
- Transitioning certain fisheries to modern and efficient reporting arrangements by amending regulations to commence electronic reporting of catch and effort and other reporting requirements (e.g., catch disposal information for abalone). See page 33 for further information on these changes.

- Creating more efficient enforcement operations through expanding mandatory use of vessel monitoring systems (VMS) to licence classes for commercial abalone, banded morwong, corner inlet, giant crab, inshore trawl, octopus, rock lobster, sea urchin, and Western port / Port Philip Bay. This change will require approximately 185 additional boats to have VMS, which contributes around \$1.14 million to the compliance costs of the Regulations (in net present value terms, or an annualised cost of around \$114,000 per year). The actual costs, however, may be lower subject to negotiated airtime packages that match the VMS data requirements. The costs of VMS on up to 20 boats may be covered by the Australian Fisheries Management Authority (AFMA). The benefits of expanding VMS are: reduced compliance costs for licence holders (removing the need for certain notifications), reduction in at-sea compliance inspections by VFA officers and increased community confidence that commercial fisheries are sustainably managed. See page 34 for further information on these changes.

There are also a number of other changes proposed for commercial fishers. These are considered to have relatively minor impact. These include revisions to catch and size limits for some species, improving traceability of fish throughout Victoria by requiring sales receipts for all types of fish, and a number of other changes to strengthen the integrity of the compliance and enforcement system.

Suggested changes that have been included in the proposed Regulations are detailed in Chapters 3 and 4, as they relate to recreational fishing and commercial fishing/aquaculture, respectively. A summary of all proposed changes is set out at Appendix C on page 73. A number of other changes that were suggested by stakeholders but not included in the proposed Regulations are outlined at Appendix D.

Who was consulted?

Consultation on the proposed regulations was led by the VFA. The following commercial and recreational stakeholder representative groups were consulted: Seafood Industry Victoria (SIV), VRFish (the Victorian recreational fishing peak body), Game Fishing Association of Victoria (GFAV), Native Fish Australia (NFA), the Abalone Industry Committee and the Aquatic Strategic Advisory Committee.

The department consulted with other relevant government departments including: Department of Justice and Community Safety (on the proposed amount of penalties), Department of Environment, Land, Water and Planning, and Department of Jobs, Precincts and Regions.

The department also worked closely with the VFA to review the current Regulations and develop the proposed Regulations. The VFA provided significant input into this RIS.

The department has now published the proposed Regulations and this RIS for interested parties to review. Details on how to make a submission are available at getinvolved.transport.vic.gov.au/fishreg2019.

Interested parties may comment on any aspect of the proposed Regulations. Some specific areas where the department welcomes feedback are:

Recreational fishing

- Are the proposed controls on the amount of fish that can be caught appropriate?
- Do the other controls (e.g., types of equipment that can be used and areas where recreational fishing is not permitted for some or all of the year) have a significant burden on the ability for people to fish recreationally?
- Are the proposed changes that affect recreational fishing (see page 15) reasonable? Do you agree the impact of these changes will be limited?

Commercial fishing and production

- Do you agree that it is appropriate to create the proposed new fisheries and licence classes for Pipi Fishery Access Licence, Banded Morwong Fishery Access Licence and Octopus Fishery Access Licence?
- Do you agree with the proposed transition to greater use of electronic reporting? What other implementation issues might arise with this proposal?
- Do you agree with the expanded use of VMS for commercial boats?
- Do you have any comments on the other proposed changes (see page 39) in terms of whether the overall impact will be minor, or are there potential other impacts not identified?

Indigenous fishing

- Do you have any other regulatory suggestions that could support persons who identify as Aboriginal or Torres Strait Islander?

How to read this document

Chapter 1 (page 1) explains the process for making the proposed Regulations and the purpose of this Regulatory Impact Statement (RIS).

Chapter 2 (page 2) sets out the reasons why governments regulate fisheries and the legislative framework for managing fisheries in Victoria.

Chapter 3 (page 9) describes the recreational fishing sector, why regulations are needed, and outlines proposed changes to the regulations that affect recreational fishing in Victoria. Only minor changes are proposed.

Chapter 4 (page 25) describes the commercial fishing and aquaculture sectors, why regulations are needed, and outlines proposed changes to the regulations that affect commercial fishing and aquaculture in Victoria. Key changes include electronic reporting, expansion of vessel monitoring systems, three new licence classes, more consistent product movement requirements and a range of other minor changes.

Chapter 5 (page 56) outlines the legislative and policy objectives of the proposed Regulations.

Chapter 6 (page 59) outlines the options for regulating Victoria's fisheries considered in this RIS.

Chapter 7 (page 62) provides an assessment of the three options, assessing the costs and benefits of each option. This chapter explains why the proposed Regulations are the preferred option.

Chapter 8 (page 69) outlines how the proposed Regulations will be implemented effectively, and how the Regulations will be evaluated after implementation.

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1 Background

The Fisheries Regulations 2009 (the current Regulations) are made under the *Fisheries Act 1995*. Under the *Subordinate Legislation Act 1994*, all regulations sunset (i.e., lapse) ten years after they are made. This is to ensure that the need for continued regulation is regularly re-examined and regulations remain fit for purpose.

In 2018 the current Fisheries Regulations were extended for 12 months² and will now sunset on 2 February 2020 (i.e., they will no longer have effect from 3 February 2020).

The Fisheries Regulations 2019 (the proposed Regulations) will replace the current Regulations.³ The remaking process provides an opportunity to revisit whether regulations are still needed and, if so, whether there are ways to improve them.

Before new regulations are made, the Subordinate Legislation Act requires:



To assist parties to review and comment on the proposed Regulations, the Subordinate Legislation Act requires the preparation of a Regulatory Impact Statement (RIS) for any regulations that impose a significant economic or social burden on a sector of the public, to be made available with the proposed Regulations. A RIS is also useful to support good decision making.

The RIS process aims to ensure that the costs of the regulations are outweighed by the benefits, and that the regulatory proposal is superior to alternative approaches.

As required by the Subordinate Legislation Act, the assessment framework of this RIS:

- examines the nature and extent of the problem to be addressed
- states the objectives of the proposed regulations
- explains the effects on various stakeholders
- assesses the costs and benefits of the proposed Regulations and compares their impacts to other feasible alternatives.

The Commissioner for Better Regulation provides an independent assessment of the RIS, against the *Victorian Guide to Regulation* (VGR).

The Department of Transport has now prepared the proposed Regulations for interested parties to review. Interested parties may make written submissions to the department about the proposed Regulations before a final decision is made on whether to formally make them, and whether any changes are needed.

Following consideration of all submissions received in response to the proposed Regulations, a notice of decision and statement of reasons will be published. Once the Regulations are made, copies of all submissions are provided to the Parliament's Scrutiny of Acts and Regulations Committee (SARC). SARC examines these submissions to check that the department has considered the views of stakeholders.

² See Subordinate Legislation (Fisheries Regulations 2009) Extension Regulations 2018, S.R. No. 112/2018.

³ Due to the requirements to formally make the new Regulations, the proposed Regulations will be made in late 2019 but will have a commencement date of 1 February 2020.

2 Why are regulations needed?

2.1 Fishing has value to the community

Fishing is an important cultural, recreational and commercial pursuit in Victoria, with around 260,000 recreational licence holders and an estimated 830,000 recreational participants, some 550 licences for wild catch fisheries in coastal marine waters and inland waters, 40 licences for commercial fishing in bays or inlets, approximately 30 bait licences and 100 aquaculture licences.

Fishing provides a number of significant social and economic benefits to the community. However, harvesting requires ongoing management to ensure the availability of fresh caught fish for future generations. Regulations are one of the key tools for this purpose.

2.1.1 Social benefits of fishing in Victoria

A number of social benefits arise from fishing. Recreational fishing can improve health through exercise and relaxation, participation in a hobby, spending quality time socialising with family and friends and providing a healthy food source. Commercial fishing provides locally harvested food and a sense of independence and pride to the fishers themselves. Social benefits to Aboriginal fishers include the ability to pursue and express traditional practices and the sharing of catch and cultural knowledge with kin.

Fishing also creates connections between fishers, their families and the community at large.

2.1.2 The net economic benefit of fishing in Victoria

A November 2015 study⁴ concluded that the direct expenditure on recreational fishing in Victoria was \$2.3 billion in 2013-14. It found that the *net* benefit of recreational fishing to recreational fishers⁵ was \$622 million in 2013-14.

The study estimated that in 2013-14 the recreational fishing sector contributed 16,257 direct jobs in Victoria and around 34,000 jobs when indirect impacts were taken into account.

The net present value of recreational fishing over the subsequent 20 years was estimated at \$91.2 billion in terms of total output, and \$50.8 billion in terms of value added to the economy.

The Gross Value Production (GVP) of the state's commercial fishing and aquaculture sectors is in excess of \$100 million per annum.⁶ Employment in the commercial sector is significant. Together, the commercial wild harvest fishing and aquaculture sectors provide direct and indirect employment for over 1,700 Victorians.⁷ Capital investment in the sector is also sizeable; licensed operators have capital investments in farms, boats, licences and processing facilities.

Maintaining and enhancing the sustainability of commercial fishing and the viability of aquaculture is an important policy objective and is reflected in the aims of the Act.

⁴ The study was undertaken by EY, commissioned by VRFish. It is available on the VRFish website. The results were based on extensive primary market research.

⁵ The net benefit is the value recreational fishers directly experience themselves (i.e., the enjoyment of the activity, and the value of fish caught) less any associated costs of the activity (e.g., equipment and travel costs).

⁶ Victorian Fisheries Authority production bulletin for 2017-18. Commercial fishing production was about \$52 million and aquaculture about \$58 million.

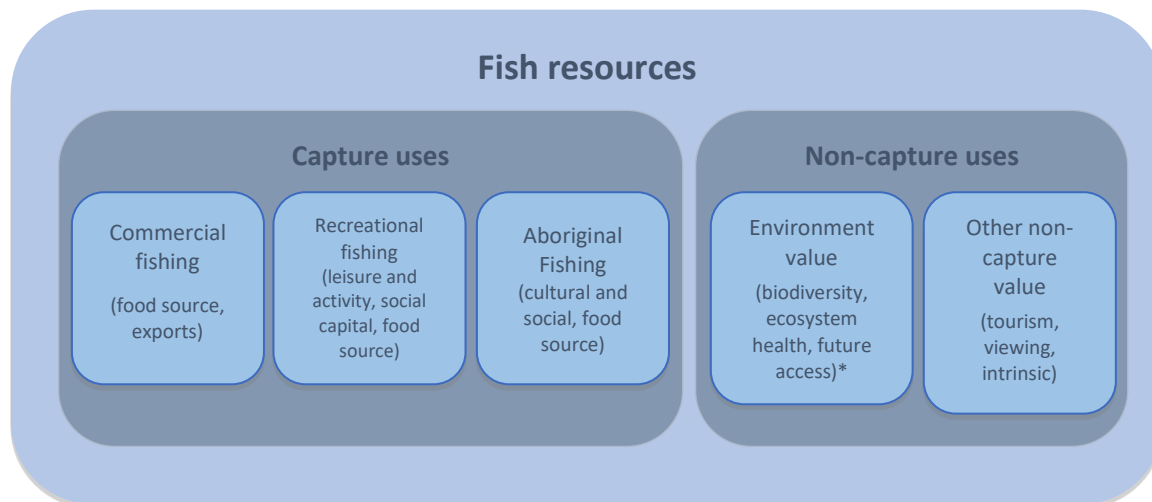
⁷ ABARES price data for 2017-18. <http://www.agriculture.gov.au/abares/research-topics/fisheries/>

2.2 The need for fisheries management

2.2.1 Defining ‘fish resources’ and how they are used

Fish within Victoria’s inland and marine waters⁸ are a ‘resource’—that is, they have a value. Fish resources have a number of potential uses (and benefits), which can be categorised as shown in Figure 1 below.

Figure 1: Sources of value of fish resources



* Environmental uses can include preservation of species (existence/bequest value) as well as related benefits such as ocean or river health.

All these uses have flow-on effects in terms of economic activities that support each use (e.g., manufacture and sale of equipment used in fishing). Each use also has a cost, even if it is only the opportunity cost of not being able to use the resource in some other way.

2.2.2 Fisheries management and the ‘problem of the commons’

Historically, fisheries management emerged as a response to the problems of overfishing and inefficient resource allocation in fisheries, and the social problems that go with resource misuse. Experience around the world has shown that poorly managed or unmanaged fisheries do not result in the optimal utilisation of fish stocks;⁹ nor do they enable the best use of the human resources and capital that are used in fishing. Unmanaged fisheries—where anyone with the motivation and the means to engage in fishing can do so to any extent—results in the ‘problem of the commons’: each fisher will have an incentive to catch as much as he or she can before someone else does. This leads to over-capitalisation (e.g., too many boats), too much expenditure on fuel and other inputs, and too many fishers and crews. That is, there is too much effort applied to harvesting the available fish resources.

Unmanaged fisheries waste economic resources, which in normal circumstances could be profitably employed in other productive activities. Ultimately, the result can be depletion of the fish stock and collapse of the fishery. Furthermore, in unmanaged fisheries, no-one has the correct incentive to undertake activities that will help build up stocks for the future.

⁸ Within Australia, each state is responsible for fisheries within its internal waters (which include river, lake and estuarine fisheries) as well as fisheries adjacent to its coastline within three nautical miles. Under Offshore Constitutional Settlement Agreements with the Commonwealth, Victoria is also responsible for managing recreational fishing and some commercial fisheries (e.g., abalone and rock lobster) in waters beyond three nautical miles.

⁹ A prominent example is the experience of Northern Cod of the eastern coast of Canada, where permitted levels of fishing led to the volume of fish stocks falling to 1 per cent, forcing a closure of the fishery in the 1990s.

Fisheries management encompasses a variety of activities that have the objective of attaining 'optimum' use of the fisheries environment, the fish stocks in it and the man-made resources applied to the catching and ultimate 'use' of fish. Views differ as to what factors should be considered in formulating a set of objectives to achieve 'optimum' use of marine and inland fish resources. There is broad consensus with the proposition that the management regime should provide for long-term sustainability of yields, and allocation of the fishery resources among competing uses in the way which is most valuable to the community. For any particular use, be it conservation, or commercial, recreational or traditional fishing, optimum use also implies an economically efficient allocation of resources such as labour and capital (effort) in the fishery.

2.2.3 Aquaculture

The proposed Regulations also apply to aquaculture production. Aquaculture does not involve taking naturally available fish resources (for the most part), but provides a sustainable supply of fresh seafood to the community. Regulating aquaculture is necessary for the purposes of environmental management, controlling locations where aquaculture is authorised, mitigating escape and biosecurity risks, restricting translocation of live aquatic organisms and for production reporting to help ensure fish are not taken from the wild.

2.2.4 Fisheries management in Victoria

The Victorian Government manages all fisheries across the State, whether they be inland, in bays, inlets and estuaries or in coastal waters out to three nautical miles. Under Offshore Constitutional Settlement Agreements with the Commonwealth, Victoria is also responsible for managing recreational fishing and several commercial fisheries (e.g., abalone and rock lobster) in waters beyond three nautical miles.

In these areas, fisheries management is jointly managed by the VFA and the department. The department's portfolio includes the Ministry for Fishing and Boating, which is responsible for governance oversight of the VFA, parliamentary matters, development of fisheries-related legislation and regulation and the provision of strategic advice to the Minister.

The VFA is responsible for commercial and recreational fishing licensing and quota management, aquaculture licensing, fisheries education and enforcement, fishery monitoring and assessment, administration of recreational fishing grants and on-ground delivery of fishing-related election commitments.

The joint management arrangements between the department and the VFA are delineated in legislation under the *Victorian Fisheries Authority Act 2016* and are designed to ensure a separation of policy development from service delivery. However, policy development and service delivery are not mutually exclusive and require a close working relationship between the responsible entities.

2.3 The legislative framework

2.3.1 Aims of the *Fisheries Act 1995*

The *Fisheries Act 1995* (the Act) establishes a legislative framework for the regulation, management and conservation of Victoria's fisheries. The Act aims to:

- provide for the management, development and use of Victoria's fisheries, aquaculture industries and associated aquatic biological resources in an efficient, effective and ecologically sustainable manner
- protect and conserve fisheries resources, habitats and ecosystems including the maintenance of aquatic ecological processes and genetic diversity
- promote sustainable commercial fishing and viable aquaculture industries and quality recreational fishing opportunities for the benefit of present and future generations

- facilitate access to fisheries resources for commercial, recreational, traditional and non-consumptive uses
- promote the commercial fishing industry and to facilitate the rationalisation and restructuring of the industry
- encourage the participation of resource users and the community in fisheries management.

2.3.2 The framework for fisheries management in Victoria

The key elements of the framework for managing fisheries in Victoria involve, depending on the sector and/or fishery, allocating and authorising access, defining access entitlements, managing harvests, and setting controls on the inputs (e.g., equipment) or outputs (catch). This is supported by management planning involving stakeholders.

The government's approach is to secure fisheries for the long term, generating economic and social benefits for our communities.

Section 10(1) of the Act states that the Crown owns all wild fish found in Victorian waters. The State therefore maintains the right to control access to wild fisheries and the practices used to catch and produce fish. Ownership only passes to the licence holder once fish are lawfully taken (Section 10(2)).

The overarching regulatory framework for fisheries management in Victoria is determined by government policy and implemented through the Act. The Act is the primary statutory instrument for fisheries, including aquaculture management in Victoria.

Under sections 36 and 40 of the Act, a person must not take fish or fishing bait for sale, use commercial fishing equipment or receive or sell fish unless authorised to do so.

Under section 42 of the Act, a person must not use, form or create habitat hatching, rearing, breeding or displaying fish or fishing bait for sale or other commercial purposes (i.e., aquaculture), unless authorised to do so.

Under section 44, a person must not take or attempt to take fish or use or possess recreational fishing equipment, unless authorised to do so.

These authorisations in practice rely on the Regulations to define the relevant licence classes which can be obtained to allow these activities to occur without breaching the provisions of the Act. This means that without regulations, recreational and commercial fishing and aquaculture activities cannot occur in Victoria.

Once authorised, it is important that fishing occurs in a manner that is consistent with sound management of the state's fish resources, consistent with the objectives of the Act.

2.3.3 Structure of legislative arrangements for fisheries management in Victoria

The Act provides the legislative framework for the conservation, management and use of Victoria's fisheries resources and for the promotion and management of aquaculture industries. The Act provides for (but is not limited to):

- creating a licensing and permit system for the possession and take of fish for recreational, commercial, scientific/research and indigenous purposes and for aquaculture
- setting a number of offences for (including):
 - unauthorised taking or possession of fish
 - unauthorised acquisition or sale of fish
 - unauthorised use of fishing equipment
- establishing processes for the issue, variation, transfer and cancellation of fishery licences and permits

- establishing a Licensing Appeals Tribunal to review decisions made in relation to the issue, transfer or renewal of commercial fishery licences
- a quota setting framework for commercial fisheries
- development of fisheries management plans which outline the management objectives and way in which fisheries will be managed
- a framework for joint management of fisheries between the Commonwealth and the State
- a range of conservation tools including processes to list and manage protected aquatic species and noxious aquatic species and to establish fisheries reserves
- establishing the powers of authorised officers, including search and seize powers
- establishing regulation-making powers and powers to issue Fisheries Notices for management purposes.

The Act is supported by two sets of regulations: the Fisheries Regulations 2009 (the current Regulations) and the Fisheries (Fees, Royalties and Levies) Regulations 2017. The Fisheries Regulations 2009 establish the different types of commercial and recreational fishing licences and detail gear restrictions, catch limits, size limits and reporting requirements for fisheries. The Fisheries (Fees, Royalties and Levies) Regulations 2017 prescribe the fees, royalties and levies for each fishing licence and permit and for quota units.

Penalty Infringement Notices (PINs, which are on-the-spot fines) relevant to the Act are contained in infringement regulations made under the *Conservation, Forests and Lands Act 1987*.

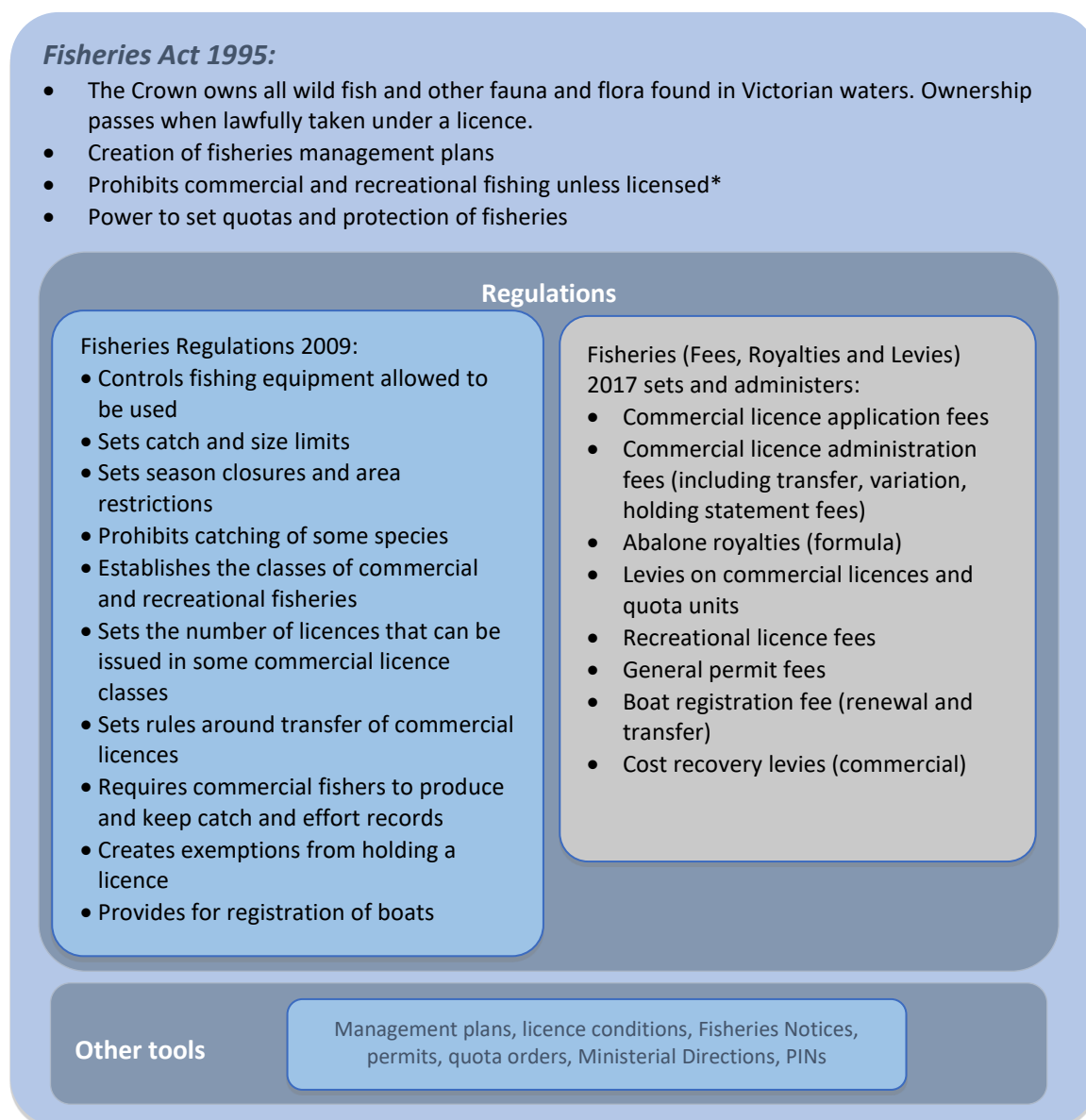
Certain elements of Victoria's fisheries management are set out in the Act itself (e.g., powers to issue quota orders and Ministerial Directions). A number of specific controls over fishing activities are managed through licence conditions, permits, management plans and the use of Fisheries Notices issued under the Act.

Figure 2 below illustrates where certain aspects of the management of fisheries reside.

The Fisheries Regulations 2009 ('the current Regulations') define a number of important requirements:

- They define the fisheries licence classes, which provide the legal authority for recreational and commercial fishing and aquaculture production in Victoria. Without defining these licences in the Regulations, no recreational or commercial fishing or aquaculture could occur.
- They set controls on each type of fishing, including gear restrictions, catch limits, size limits, closed seasons and restrictions for specific areas. They also define the number of licences permitted for some commercial fisheries. These are designed to ensure that permitting fishing does not lead to over-fishing (decreasing the sustainability of ongoing fish resources) or other negative environmental impacts, conflict with other users or a decline in the quality of fishing for participants. They also help to define responsible, ethical and safe fishing activities and share the resource across fishers.
- They outline a range of measures to allow the regulatory agency (VFA) to monitor and enforce the management controls—for example by allowing use of equipment or fish sold to be traced to licence holders and to collect data to inform resource management decisions. The government (regulator) needs to be able to know what's being taken and have the ability to act against unauthorised activity wherever it can be best detected.

Figure 2: Legislative arrangements for fisheries management



* Under the Act, a person under the age of 18 may fish recreationally without holding a recreational fishery licence.

The current Regulations also deal with compensation when a commercial licence is cancelled as a result of a Ministerial direction under section 61 of the Act. This must be included in the Regulations as the Act specifies that the Secretary must determine the amount of compensation payable in these situations in accordance with the regulations. If a licence were cancelled pursuant to section 61 without any regulations in place, there would be ambiguity and uncertainty about how the compensation is to be calculated and paid, or potential for legal disputes. Section 63 of the Act provides that the compensation will be for:

- the assessed market value of the licence
- the assessed market value of the losses (if any) that would be incurred if the fishing boat and equipment used under the licence were to be sold
- the loss of up to 3 years of net income (based on past net income)
- an amount by way of a solatium of up to 10 per cent of the compensation for the first two items.

2.4 Is there still a need for regulation?

Over the past 18 months, the department and the VFA have reviewed the effectiveness of the current Regulations and determined that the fundamental need for the regulations still exists as:

- regulations are required to define the various fisheries and licence classes, to enable recreational and commercial fishing and aquaculture to occur and to allow for traditional owner access to fish resources. If the fisheries and the licence classes are not defined, fishing would not be permitted in Victoria.
- regulations ensure that fishing in Victoria is conducted in a manner consistent with the objectives of the Act—that is, to ensure fishing is sustainable, and protects and conserves fisheries resources and ecosystems.
- an absence of a robust regulatory framework or an ineffective regulatory framework could compromise the sustainability of fishing (i.e., risk over-fishing), result in negative environmental consequences (e.g., cause habitat or ecosystem damage), result in unnecessary by-catch and compromise animal welfare. The VFA monitors sustainability and assesses the risks of overfishing on an ongoing basis, including identifying where levels of fishing or the method of fishing are affecting fish stocks and ecosystems. Based on this information, the VFA is of the view that regulatory controls to manage the number of fish taken and the way they are taken, are still needed.
- regulatory tools are required to manage the any negative socio-economic problems (e.g., collapse of commercially valuable fisheries) caused by unregulated fishing and to ensure the resource is shared between sectors. These problems are well understood and most governments throughout the world use regulatory tools to ensure that the socio-economic benefits of fishing are sustained and that sectors have suitable access to the resource.
- regulatory controls relevant to aquaculture are required to ensure fish are legally sourced, help minimise biosecurity risks and ensure our aquaculture businesses are viable, profitable and sustainable for future generations.

The review by the department included an assessment of the regulatory burden of the current Regulations and identification of ways to simplify the regulatory requirements, in particular making compliance obligations easier to understand and comply with.

Preliminary consultation with key stakeholders also found general support for the continued regulation of fishing across Victoria.

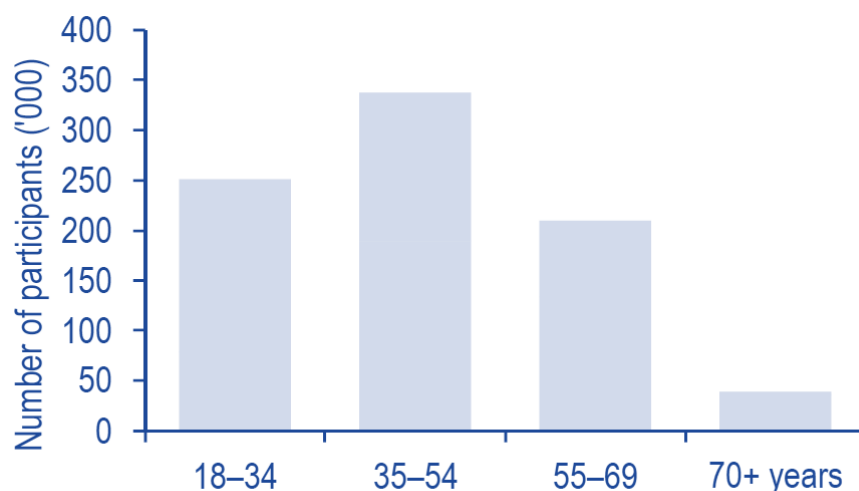
3 Recreational fishing

3.1 The benefits of recreational fishing

Recreational fishing is one of the most popular recreational pursuits in Victoria. EY estimated that in 2014, approximately 830,000 Victorian adult residents participated in recreational fishing.¹⁰ The government's Target One Million initiative is expected to further increase this participation level. Recreational fishers made an estimated 6.1 million fishing trips across Victoria in 2014, with over half of these trips occurring in regional areas. A VFA Participation Study in 2018 found that 176,889 Victorians aged between 5 and 12 fished for the first time over the previous three years.

The figure below shows the number of participants by age group (for persons 18 years and over).

Figure 3: Recreational fishers in Victoria by age



Source: EY (2015)

The EY study¹¹ concluded that the direct expenditure on recreational fishing in Victoria was \$2.3 billion in 2013-14. It found that the *net* benefit¹² of recreational fishing to the fishers (i.e., after taking account of the costs of fishing) was \$622 million in 2013-14.¹³

It was estimated that the recreational fishing sector contributed 16,257 direct jobs in Victoria in 2013-14, with around 34,000 jobs when indirect impacts are taken into account.

The net value of recreational fishing over the subsequent 20 years was estimated at \$91.2 billion in terms of total output, and \$50.8 billion in terms of value-added to the economy.

¹⁰ EY (2015), Economic Study of Recreational Fishing in Victoria, commissioned by VRFish. It is available on the VRFish website. The results were based on extensive primary market research. The number of people participating in recreational fishing includes both those required to purchase a recreational fishing licence (RFL) (of which around 270,000 are sold each year – see Appendix A) and those exempt from having to purchase a licence under the current Regulations, except it does not count people under 18 who, under the Act, are not required to hold a licence. The number of persons under 18 who participate in recreational fishing has not been measured, however a VFA Participation Study in 2018 found that 176,889 Victorians aged between 5 and 12 fished for the first time over the previous 3 years.

¹¹ Ibid.

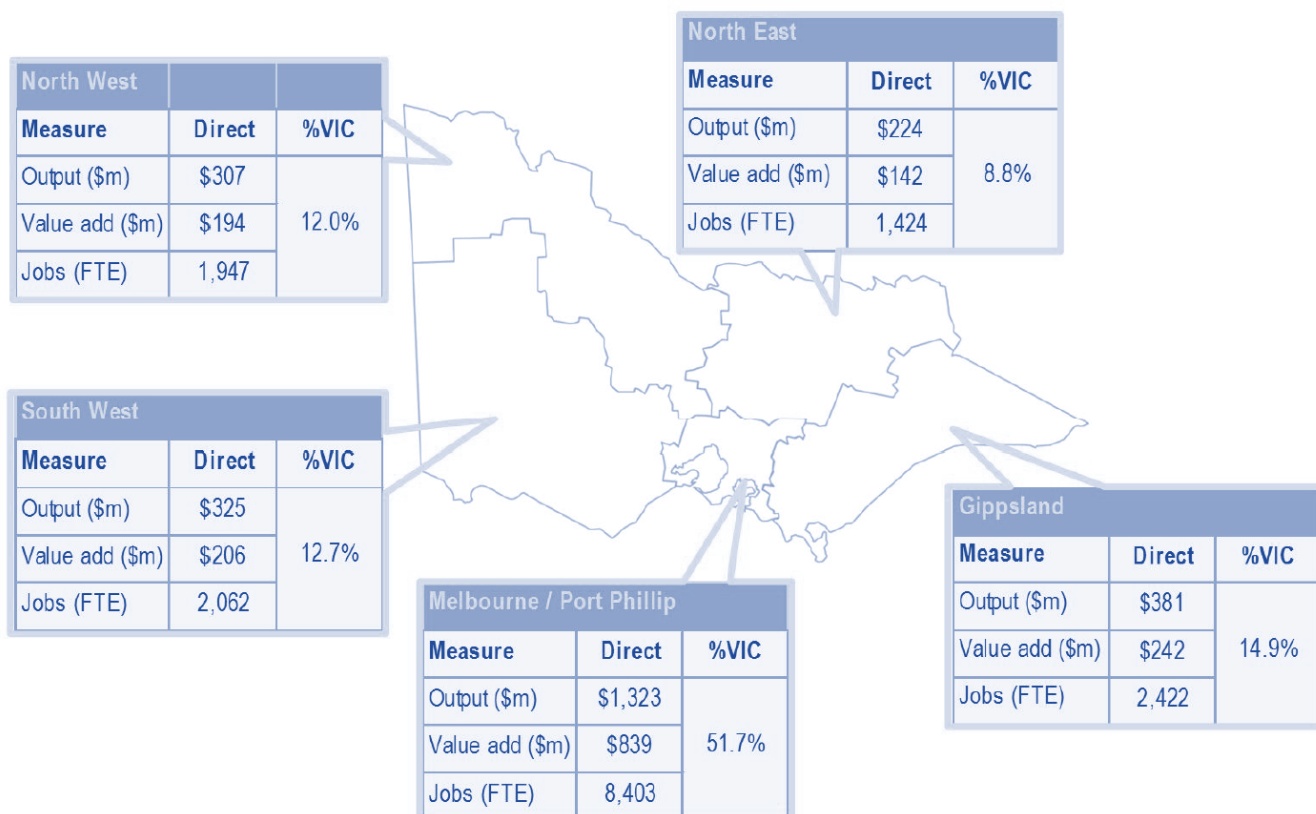
¹² The net benefit was measured by the 'consumer surplus'—the additional value that is derived from undertaking fishing activities, over and above what has been paid for that fishing activity (including equipment, bait, travel, etc). It is the difference between what participants would be willing to pay to undertake an activity and what they actually pay.

¹³ This net benefit, being measured as the 'consumer surplus' to the individual fishers, was limited to Victorians fishing in Victoria. It did not count recreational fishing by interstate or overseas fishers in Victoria, which is expected to bring additional economic benefit to Victoria where the participation of fishing is the purpose of their visit.

The study highlighted the importance of the recreational fishing industry to Victoria. Importantly, the study’s measure of the net benefit to recreational fishers, which was based on their willingness to pay to participate, only measures benefits to the individuals. It does not measure other benefits of recreational fishing which are known to exist, such as health benefits from fishing and exposure to the natural environment. The true net benefit of recreational fishing to the community as a whole could therefore be larger than that measured in the EY study.¹⁴

The following figure illustrates the distribution within Victoria of the economic measures of recreational fishing.

Figure 4: Direct economic output, value add (net benefit) and employment, by region



Source: EY (2015)

Recreational fishing creates jobs from a range of direct and indirect employment and income opportunities. These include direct employment as fishers or in associated trade industries (e.g., the boating industry, tackle shops, charter boat operators, bait wholesalers) and fisher expenditure on equipment, fuel, bait, food, accommodation, boat hire, fishing club and association fees, boat related expenditure (e.g., purchase price, registration and maintenance) and travel to and from fishing locations.

¹⁴ For example, research undertaken for the Fisheries Research and Development Corporation found that participation in recreational fishing generates a number of psychological, physiological and social benefits, including promoting general health and well-being, reducing stress, improving mental health (McManus, Hunt, Storey, Fisheries Research and Development Corporation, Identifying the health and wellbeing benefits of recreational fishing). A survey undertaken by the Centre for Research and Action in Public Health acknowledged a direct link between recreational fishing and wellbeing. The study concluded that happiness/enjoyment of fishing and people’s sense of wellbeing are intrinsically linked (Schirmer, J., Centre for Research and Action in Public Health, University of Canberra, Understanding the social dimensions of recreational fishing in South Australia, 2012).

Recreational fishing also provides social benefits to Victorians, particularly in regional Victoria. Research has found that recreational fishing can promote general health and wellbeing, reduce stress and improve mental health through exercising and relaxation, participation in a hobby, spending quality time socialising with family and friends and providing a healthy food source. Fishing also creates connections between fishers, their families and the community at large.

In recognition of the important contribution that recreational fishing makes to the Victorian economy each year, the Andrews government announced the *Better boat ramps, free parking and more fish for Victorians* policy commitment to provide an unprecedented boost to recreational fishing and boating in Victoria. Under this \$35 million initiative, the government will make it cheaper and easier for Victorian families to get out on the water. The government has also for the first time created a Ministry for Fishing and Boating.

These commitments build on the government's \$46 million Target One Million initiative to enhance opportunities and grow participation in recreational fishing to one million people by 2020.

3.2 Purpose of the recreational Regulations

Regulations are needed to define the class of licence (Recreational Fishing Licence) that people can obtain to authorise them to fish recreationally in Victoria. If these licences are not defined in the Regulations, no recreational fishing could occur.

The current Regulations, and the proposed Regulations, define a recreational fishing licence (RFL) as a class of licence, which authorises the take of fish for non-commercial purposes, subject to set gear restrictions, catch limits, size limits, closed seasons and restrictions for specific areas. There are no eligibility requirements on who may obtain an RFL, other than payment of the relevant price.

The current Regulations set out classes of people that are not required to obtain a licence in order to fish recreationally—these are persons of 70 years of age or older, Seniors Card holders, Commonwealth pension recipients, and carer's payment recipients who hold concession cards.¹⁵ The exemptions have historically recognised that some groups of people have reduced capacity to pay fees. For many of these people, this will reflect changes in working status – i.e., they pay licence fees while they would be expected to be of working age, and then become exempt when they are no longer working. Over their entire lives, they contribute fees when they have the ability to pay and then continue to enjoy the benefits of recreational fishing after this.

The exemption from the need to hold an RFL does not exempt a person from complying with any regulations related to fishing, including rules on equipment, catch limits, size limits or restricted areas. In practice, the purpose of requiring most people to 'buy' an RFL is primarily to collect revenue to help improve services to recreational fishers, and to collect data about the number of people fishing.¹⁶

While the exemptions are included in the current and proposed Regulations, options for changing the exemptions arrangements are not considered in this RIS. In practice, the only effect of the exemptions is to change the revenue levels that are placed into the RFL Trust Account. The department considered the current exemptions in 2017 when reviewing the RFL fees.

¹⁵ Persons under 18 are already exempt from the need to hold a licence under the Act. This cannot be altered by the Regulations.

¹⁶ See the Regulatory Impact Statement on the Fisheries (Fees, Royalties and Levies) Regulations 2017 for further information: https://engage.vic.gov.au/download_file/4525/1081.

Under the proposed Regulations, one change is proposed to exempt persons who identify as Aboriginal or Torres Strait Islander¹⁷ from the need to obtain an RFL. The current Regulations already exempt traditional (non-commercial) fishing activities that are carried out by members of a traditional owner group entity under an agreement pursuant to Victoria's *Traditional Owner Settlement Act 2010*. Native title holders are also exempt from the need to obtain a licence under the provisions of the Commonwealth's *Native Title Act 1993*.

However, such settlements and determinations only apply to members of the Traditional Owner Corporation to which the settlements or determination relate. As settlement agreements and native title determinations can take time to negotiate and finalise, a broad exemption for Aboriginal and Torres Strait Islander people from the need to obtain an RFL is considered appropriate. These Indigenous people will still be required to comply with all other rules that apply to recreational fishers, including rules on equipment, catch limits, size limits and restricted areas.

This change will reduce the burden for those who identify as Aboriginal or Torres Strait Islander from the need to obtain an RFL. This change will not affect any settlement or native title negotiations underway and is not expected to have a material impact on the amount of recreational fishing that occurs or on the availability of fish resources.

3.3 Managing the impact of recreational fishing

Recreational fishing in Victoria is managed using a range of tools with the aim of providing sustainable and quality fishing opportunities for the benefit of present and future generations. These tools include:

- statutory mechanisms (e.g., provisions under the *Fisheries Act 1995*, *Fisheries Regulations 2009*, *Fisheries (Fees, Royalties and Levies) Regulations 2018*, Governor in Council Orders, *Fisheries Notices*)
- policy instruments, harvest strategies and management plans
- monitoring and survey of and research into key species
- infrastructure and habitat investment
- stocking programs
- compliance and education programs (e.g., compliance operations and education and extension material to ensure fishers are aware of their regulatory obligations and requirements).

The regulatory framework is only one of the tools used to manage the impacts of recreational fishing. However, in general, well-regulated recreational fishing will not have an adverse impact on ecological sustainability of fish resources or on fish habitats.¹⁸

¹⁷ In the 2016 Census, less than 1 per cent of the Victorian population indicated they identified as Aboriginal and/or Torres Strait Islander (ABS Community Profiles).

¹⁸ Where recreational fishing is identified as having a risk to the availability of fish resources, responses such as fish restocking are considered, as well as changes to bag limits if necessary to manage the overall take.

There is currently no limit on the number of people allowed to fish recreationally. Rather, management of recreational fishing relies on a series of controls to limit effort and restrict the total amount of fish taken to ensure fishing is sustainable. Fisheries management achieves this predominantly through licensing, which informs us of who is fishing for what and from where, catch limits (bag and possession limits) and restrictions on use of equipment (type of equipment and number of pieces permitted to be used). These limitations are not the result of a precise calculus but rather seek to define what is generally considered sustainable (as evidenced by the ongoing viability and availability of target species) and regarded by the community as a suitable amount of fish for a recreational purpose (i.e., not with the intention to sell any fish caught).

Other restrictions include fish size limits, and certain areas that are not available for fishing during some or all of the year. Size and spatial limits (which can apply to both recreational and commercial fishing) are intended to protect particular components of the life history of fish species. There are also a small number of restrictions that relate to safety (of fishers or other people) or protection of property.

The catch and equipment limits are considered appropriate, in that they still allow a catch that should be sufficient for most private purposes while maintaining the sustainability of take. The areas where recreational fishing is restricted for all or part of the year are small compared to the areas where fishing can occur.

Fish production and stocking can help ensure Victoria's recreational fisheries remain highly productive, with associated benefits for recreational fishers and regional economies. It also helps protect some wild native fish populations from overfishing. Inland waters can be stocked where self-sustaining populations do not exist or where they should be augmented for recreational fishing purposes. Stocking usually occurs in areas where the increased public value outweighs the cost of stocking, as evidenced through fisher visitation, demand and return to fishers. Victoria stocked close to 18 million fish between 2014 and 2018.

3.4 Ensuring the Regulations are still effective and fit for purpose

In the development of the proposed Regulations, VFA consulted the recreational fishing sector and undertook a review of the operation of the current Regulations, with particular regard to enforcement activities. Stakeholders were invited to comment on any elements of the current Regulations that could be changed, or removed if no longer relevant or necessary. While a number of minor changes were suggested, based on the consultation it is believed that most recreational fishers generally support the current restrictions placed on this form of fishing and the enforcement of these laws. In particular, the current use of limits on take, use of equipment, and clear rules around when and where recreational fishing can occur was considered effective in achieving the objectives of supporting access and availability of recreational fishing on a sustainable basis.

VFA also undertook a review of the effectiveness of the current rules applicable to recreational fishing, and considered that on the whole, the current approach was broadly effective in achieving the legislative and policy outcomes relevant to recreational fishing, and managing the interaction between recreational fishing and other fishing activities.

However, a number of minor changes relevant to recreational fishing have been included in the proposed Regulations. Proposed changes were identified from either recreational fishing stakeholders or the VFA (or both) for the purpose of identifying opportunities to:

- Simplify requirements, to make them easier to understand and comply with
- Provide for greater levels of recreational fishing where there was evidence that increased fishing would remain sustainable
- Tighten restrictions in a small number of areas where there was evidence of current fishing activities affecting sustainability, or having other negative impacts

All suggested changes were considered by a small steering committee made up of department and VFA staff, which considered how the changes overall would contribute to the government's objectives for regulating fisheries.

The changes proposed to be made in the Regulations are set out in the table below. The impacts of these changes have been assessed against a set of descriptors and given a qualitative rating in accordance with the matrix provided at Table 17 in Appendix F. Overall, the changes are considered to be minor and are not expected to cause any noticeable reduction in the level of recreational fishing that occurs in Victoria, and indeed some changes may assist in supporting improved recreational fishing experiences.

Table 2: Proposed changes to the regulations relating to recreational fishing¹⁹

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Remove the salmonid closed season for Mt Emu Creek and the Moyne river*	Currently Mt Emu Creek and part of the Moyne River (upstream of the Toolong Bridge) are subject to the salmonid closed season. As both systems are stocked annually with trout and there is no strong evidence of natural recruitment, these rivers should be excluded from the closed season.	<5% of recreational fishers	None	High	n/a	Very high	No cost impact. Improves fishing opportunities for recreational fishers.
Include a volume (0.5L) as a catch limit method for bass yabby (shrimp) to replace the current number limitation*	A volume limit is a simpler means of determining an amount for these small species.	5% to 10% of recreational fishers	Very low	High	Very high	Very high	Reduces burden for recreational fishers and Fisheries Officers.
Reduce bag/possession limit of Macquarie perch in the Yarra River to zero*	There are concerns from recreational fishing stakeholders about the Macquarie perch population. A reduction in bag limit is requested for the Yarra River. On the basis of the stock being genetically valuable and possibly a contributor to the VFA's broodstock at the hatchery at Snobs Creek. A reduction in bag limit is proposed.	<5% of recreational fishers	None	High	Very high	Very high	Feedback from Fisheries Officers is that the targeted harvest for Macquarie perch in the Yarra River is very small. Minor impact on a small number of fishers.

¹⁹ (*) denotes changes that were proposed by recreational fishing stakeholders. All other changes were identified by VFA.

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Reduce the bag limit from 5 to 2 and increase the size limit from 23cm to 30cm for river blackfish (both <i>Gadopsis bispinosus</i> and <i>Gadopsis marmoratus</i>)*	Anecdotal information from recreational fishers suggest there are large scale decreases in distribution and abundance of these species across Victoria. While <i>Gadopsis bispinosus</i> (two-spined blackfish) can be common north of the Great Dividing Range, <i>Gadopsis marmoratus</i> is very rare and catch limits require attention. Both species are slow growing and have low fecundity rates. The VFA committed to better management arrangements for these species through the Freshwater Fisheries Management Plan.	<5% of fishers	None	High	Very high	Very high	A very small increase in burden for recreational fishers but ensures sustainability in the long term.
Allow the use of barbed flying gaffs (with a hook)*	Non-barbed gaffs can contribute to a shark or large pelagic species coming off the gaff and falling back into the water injured. Gaffs coming out of large fish can also lead to dangerous situations whereby the angler or crew could be harmed or injured due to the fish being injured and agitated. Harpoons will remain prohibited.	<5% of fishers	None	Medium	High	Very high	This rule will reduce burden for a large number of game fishers that have in their possession barbed flying gaffs. Improves safety of anglers and can improve animal welfare outcomes.

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Limit amount of berley used to 10 litres in Port Phillip Bay, Western Port Bay, Gippsland Lakes or any inlet of sea or within 1 nautical mile of the coastline or any island*	Currently recreational fishers must not use more than 10 litres of berley to assist in the taking of shark and there is no restriction on where the berley may be used. This is a potential hazard which could lead sharks into shallow waters or attract sharks to feed near swimmers or coastal beaches.	10% to 50% of recreational fishers	None	High	Very high	Very high	Minor impact with a reduced amount of berley to be used in certain areas by recreational fishers. Considered to be a minor impact as fishing can continue to occur. Improves safety for bathers.
Prohibit tethering of fish*	A small number of recreational fishers still tether live fish in the water by placing a hook, clasp or string through the lip or other part of the fish. Many fishers believe this is an outdated practice and compromises the welfare of fish. This prohibition will not affect the use of live wells or keeper nets.	<5% of recreational fishers	None	High	Very high	Very high	Minor impact on a small number of recreational fishers that currently tether live fish in the water. This change will result in improved animal welfare outcomes.
Change the current default daily bag limit for goatfish (fish of the family Mullidae) from 5 to 20	Some recreational fishers are of the view that the default limit of five goatfish is too low, particularly as they are generally small and plentiful. The VFA has advised there is no evidence of stock depletion and that this change will not result in any sustainability concerns.	5% to 10% of recreational fishers	None	High	High	Very high	Reduces burden for recreational fishers by allowing increased take.

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Remove the quantity limit on particular hand-held recreational fishing equipment that may be used	The number of items such as landing nets, dip nets and bait pumps that a recreational fisher can use at any one time is currently restricted to one. As the use of more than one piece of hand-held equipment is practically difficult (near impossible), this restriction is being removed. The restrictions on the number of lines that a recreational fisher can use will be retained.	5% to 10% of recreational fishers	None	Very high	Very high	Very high	No real impact.
Define southern rock cod as species of the genera <i>Lotella</i> and <i>Pseudophycis</i>	The name southern rock cod is ambiguous and may be used for several different species. This will clarify which species are subject to the southern rock cod catch and size limits. A combined catch and size limit for fish of these genera means fish that are strikingly similar in appearance (such as red cod, bearded rock cod, large tooth beardie and slender beardie) will remove any ambiguity about the number of fish that can be taken.	5% to 10% of recreational fishers	None	High	Very high	Very high	Combining these species in the existing catch and size limits for southern rock cod will reduce the burden on recreational fishers in relation to fish identification.
Remove offences relating to fishing in or on Ryan's creek between Loombah Weir and McCallisay Weir (near Tatong)	Ryan's Creek is in a closed catchment for Benalla's water supply. This regulation is no longer relevant.	<5% of recreational fishers	None	High	Very high	Very high	No impact on stakeholders as fishing cannot occur there anyway.

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Amend definition of recreational hand-held spear so that more than 2 prongs and barbs are allowed	The existing regulation prohibited the barbs on spears as it was believed this would support fishers in releasing fish that are undersize. This is considered an obsolete requirement that could compromise the welfare of fish. The proposed regulation removes this restriction and allows more than two prongs on a hand-held spear that a recreational fisher may use and possess. The proposed change aims to prevent the release of speared fish and will place the responsibility of determining appropriately sized fish on the fishers, before the spear is used.	5% to 10% of recreational fishers	None	High	Very low	Very high	Removes restrictions on types of hand-held spears recreational fishers can use. Reduces burden on tackle traders.
Remove requirement to carry abalone measuring instrument when taking abalone recreationally	Recreational take of abalone is managed by seasons and size and catch limits. Recreational fishing for abalone is currently the only targeted species that requires the recreational fisher to carry a measuring tool. This change creates consistency with other recreational fisheries and places responsibility on the fishers themselves to ensure they take abalone within the existing size limits.	<5% of recreational fishers	None	Very high	Very high	Very high	Reduces burden on recreational abalone fishers.

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Include tarwhine in recreational bream catch and size limits	Tarwhine are a species that may be caught by recreational fishers in the Gippsland area and have a similar appearance and biology to black bream and yellowfin bream. Combining these species in catch and size limits will reduce the burden on recreational fishers in relation to fish identification.	5% to 10% of recreational fishers	None	High	Very high	Very high	Simplifies rules for recreational fishers.
Bring the recreational size and catch limits for fish species into one main table for improved readability	Minimum size limits, maximum size limits and daily bag limits for recreational fishers are currently prescribed in separate regulations and it can be difficult to quickly locate the requirement for a given species. To help readability of the regulations, these will be combined into a main table with relevant exemptions being maintained.	All recreational fishers	None	Very high	Very high	Very high	Administrative change only. Reduces burden for any person using the regulations by making it easier to identify management arrangements for a species.
Incorporate Fisheries Notices relevant to recreational fisheries into the regulations	A Murray Cod Fisheries Notice was first issued in 2014. It set management arrangements for this species. These controls are now well established and will be transferred into the regulations.	10% to 50% of recreational fishers	None	High	Very high	Very high	Administrative changes only - no relative impact as fishers already required to comply with the provisions under each notice. Reduces the administrative burden on the VFA and provides
	A Murray Spiny Freshwater Crayfish Fisheries Notice has been in place since 2012. It sets management arrangements for this species. These controls are now well established and will be transferred into the regulations.	<5% of recreational fishers	None	High	Very high	Very high	

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
	A Rays Fisheries Notice has been in place since 2017. It sets management arrangements for rays, skates and guitarfish. These provisions will now be transferred into regulations.	50% to 80% of recreational fishers	None	High	Very high	Very high	certainty to fishers regarding the management arrangements.
	A Golden Perch Fisheries Notice has been in place for several years. It sets management arrangements for this species. These controls are now well established and will be transferred into the regulations.	5% to 10% of recreational fishers	None	High	Very high	Very high	
	A Trout Cod Fisheries Notice has been in place for several years. It sets management arrangements for this species. These controls are now well established and will be transferred into the regulations.	<5% of recreational fishers	None	High	Very high	Very high	
	A Trout (salmonids) Fisheries Notice has been in place since 2017. It sets management arrangements for salmonids in certain locations. These controls will now be transferred into the regulations.	10% to 50% of recreational fishers	None	High	Very high	Very high	

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Prohibit the use and unreasonable possession of opera house nets at all Victorian waters	The VFA recently announced a ban on the recreational use of opera house nets. Opera house nets can result in drowned wildlife (e.g., platypus, turtles and native water rats), which can be avoided if open-top lift nets are used instead. This has taken effect via a Fisheries Notice (from 1 July 2019) and this proposal will transfer the ban into the regulations. The ban will apply in, on or next to all Victorian waters.	10% to 50% of recreational fishers	None	High	Very high	Very high	Administrative change only, as the prohibition has already been implemented through a Fisheries Notice. To offset any burden on recreational fishers, the VFA provided up to three open top lift nets for free through participating tackle shops to fishers who traded in their opera house nets.

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Increase the recreational fishing bag limit for sea urchins from 20 to 40	<p>Sea urchins are a native species that are expanding their range and increasing in abundance as a consequence of rising sea temperatures and the influence of a strong East Australian Current. Localised high densities of sea urchins can lead to overgrazing of reefs and a risk to marine species that rely on healthy habitat. Research has found that through a combination of commercial fishing and density reduction, the densities of urchins can be managed, which can lead to improvement in habitat and better roe quality.</p> <p>The increase in the recreational bag limit will contribute to management of this species.</p>	<5% of recreational fishers	None	High	High	Very high	Reduces the regulatory burden by allowing increased catch.
Update the list of 'family fishing lakes' in the relevant schedule	A number of lakes are proposed to be added and removed from the schedule of 'family fishing lakes'. For listed waters, the catch limit for salmonids (including trout) is 5 (where no more than 2 can be greater than 35cm). The updates reflect the waters that are currently being stocked for family fishing purposes across Victoria.	5% to 10% of recreational fishers	None	High	Very high	Very high	The catch and size limits associated with family fishing lakes are designed to sustain good recreational fishing experiences and increase the chance of catching a fish.

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Exempt persons who identify as Aboriginal or Torres Strait Islander from the need to obtain a Recreational Fishing Licence	Will enable Aboriginal and Torres Strait Islanders who are not subject to a settlement agreement or native title determination to pursue and express traditional practices and the sharing of catch and cultural knowledge with kin.	<5% of recreational fishers	None	High	High	Very high	Reduces the regulatory burden for some Aboriginal or Torres Strait Islanders. This change is not expected to have any material impact on the amount of recreational fishing that occurs or on the availability of fish resources.
Create a new offence for defacing or interfering with a fisheries-related sign (e.g., a sign erected by the VFA to detail catch limits)	Signs, such as those explaining changes to the catch limits and handling of fish can be costly to erect and maintain. A new offence will be created to prohibit interference with a fisheries-related sign. The frequency of interference with such signs is not currently high, although where it does occur it makes enforcement of other regulations more difficult, and there is a cost for VFA to replace the signs.	All recreational fishers	None	Very high	Very high	Very high	Not expected that this will have a real cost on any person—it is expected that non-compliance with this new requirement will be rare—however it will assist in enforcement and safety.
Clarify the bag limit of swordfish and marlin as a combined one fish per day.	Under current management arrangements advertised by the VFA, all species of marlin (and swordfish) have a combined total bag limit of 1. The proposed amendment will clarify this arrangement in the regulations.	<5% of recreational fishers	None	High	Very high	Very high	Administrative change only.

4 Commercial fishing and aquaculture

4.1 The benefits of commercial fishing and aquaculture

There are about 550 licences issued for wild catch fisheries in coastal marine waters and inland waters, around 40 licences for commercial fishing in bays or inlets, approximately 30 bait licences and 100 aquaculture licences.

The GVP of the commercial fisheries sector (both commercial fishing and aquaculture production) is over \$100 million per annum.²⁰ Within commercial fishing's output of around \$52 million in 2017-18, abalone represented around \$27 million, and lobster \$23 million. In addition to these fisheries, a large range of other fish resources is utilised.

Aquaculture represented about \$58 million in production in 2017-18, with growth in this sector now placing it at greater gross value than commercial fishing.

Employment in Victorian fishing is significant. Together, the commercial wild harvest fishing and aquaculture sectors provide direct and indirect employment for over 1,700 Victorians.²¹ Capital investment in the sector is also sizeable. Licensed operators have capital investments in farms, boats, licences and processing facilities. Combined, these labour and capital resources produce a significant economic output annually.

Maintaining and enhancing the sustainability of commercial fishing is an important policy objective and is reflected in the aims of the Act.

4.2 Purpose of the commercial fishing and aquaculture Regulations

For commercial fishing and aquaculture, the Regulations are needed to allow commercial fishing and aquaculture production to occur.

The Regulations also ensure that commercial fishing occurs in a way that is consistent with sustainable management of the resource over time. The Regulations set out what can be caught under each licence, how, where and when.

The Regulations also allow the VFA to take appropriate compliance and enforcement actions to ensure the management controls are being adhered to. Without compliance, the overall policy objective of the Act would probably not be met. Non-compliance could occur in many ways and not be detected, so the Regulations provide a number of mechanisms to allow checking at multiple stages of the supply chain.

A number of requirements are designed to make compliance and enforcement activities more efficient. For example, use of receipts for the sale of fish reduces the need for additional monitoring and oversight of fishing activities by enforcement officers. The requirements related to boat registration mean that an enforcement officer can easily confirm the fishing activity is authorised under a licence, allowing effort to focus on suspected illegal fishing.

Further, to assist management, policy and enforcement decisions, the VFA requires information about what each licence holder is doing.

²⁰ Victorian Fisheries Authority production bulletin for 2017-18.

²¹ ABARES price data for 2017-18. <http://www.agriculture.gov.au/abares/research-topics/fisheries/>

4.3 Managing the impact of commercial fishing and aquaculture

Management of commercial wild catch fisheries is a complex and dynamic task as each fishery has unique requirements and needs (with different species, catch techniques, marine environments and nature of demand). However, the central aim of commercial fishing management is to strike a suitable balance between exploiting and maintaining fish resources, now and into the future, and to facilitate a viable and profitable commercial fishing sector. In Victoria, this is achieved through an integrated management regime that includes:

- statutory mechanisms (e.g., provisions under the *Fisheries Act 1995*, Fisheries Regulations 2009, Fisheries (Fees, Royalties and Levies) Regulations 2018, Governor in Council Orders, Fisheries Notices).
- policy instruments, harvest strategies and management plans
- research and science to provide information to manage fisheries
- reporting and monitoring requirements
- compliance and education programs (e.g., compliance operations and education and extension material to ensure fishers are aware of their regulatory obligations and requirements).

As previously noted, the regulatory framework is only one of the mechanisms used to manage commercial fishing. However, the regulatory framework establishes a number of important management controls that ensure sustainable fishing activities. These controls include:

- licensing requirements to authorise take and the equipment and methodologies that may be used
- restrictions on fishing operations (e.g., number of fishers, restrictions on number and timing of trips)
- fishing closures to protect important areas and minimise conflict with other users
- catch limits (species limits, trip limits and total catch limits)
- gear limits and restrictions to limit catches and minimise by-catch
- boat registration and equipment marking requirements to link equipment to licence holders
- vessel monitoring systems to track vessel movement and fishing locations
- notification requirements, product movement records and product labelling requirements to assist with targeted enforcement activities and ensure fish are harvested legally
- reporting requirements to monitor levels of take and ensure fishing remains sustainable.

The majority of commercial wild catch fisheries in Victoria are managed as limited-entry fisheries with a maximum number of licences available for each licence class. Under these arrangements, most existing licences may be transferred to another owner, but no new licenses may be issued. This limits the amount of fishing effort that can be applied to a fishery.

Victoria also has a number of fisheries that manage the overall take using total allowable catches (i.e., quota regimes). These fisheries use assessments of fish populations, and harvest strategies to define the desirable level of resource use and/or points at which changes in management are required to meet policy objectives. However, quota regimes are not set using the Regulations. Rather, they are established via Orders under the *Fisheries Act 1995*.

The primary mode of control (and facilitation) relevant to aquaculture is the granting of licences, marking of equipment and boundaries, product labelling requirements for certain fish and the requirement to document and report on product sources and movement. These controls ensure fish are legally sourced (i.e., not taken from the wild) and help minimise biosecurity risks.

4.4 Ensuring the Regulations are still effective and fit for purpose

The department and the VFA have reviewed the operation of the current Regulations, in consultation with industry. Stakeholders from the commercial fishing and aquaculture sectors were invited to comment on any elements of the current Regulations that could be changed, or removed if no longer relevant or necessary. While a number of changes were suggested relevant to wild catch commercial fishing, based on the consultation it is believed that most stakeholders generally support the current restrictions placed on this form of fishing and fish production and the enforcement of these laws. In particular, the current use of limits on take, use of equipment, and clear rules around when and where commercial fishing can occur was considered effective in achieving the objectives of facilitating commercial fishing and production on a sustainable basis, while recognising the commercial aspects of operating licences (such as a clear statement of authorised activities vis a vis interaction with other licences). No comments from industry relating to aquaculture were received.

VFA also undertook a review of the effectiveness of the current rules applicable to commercial fishing and aquaculture, and considered that on the whole, the current approach was broadly effective in achieving the legislative and policy outcomes relevant to managing fisheries, and managing the interaction between commercial fishing and other fishing activities.

However, a number of minor changes relevant to commercial fishing and production have been included in the proposed Regulations. Proposed changes were identified from either stakeholders or the VFA (or both) for the purpose of identifying opportunities to:

- Simplify requirements, to make them easier to understand and comply with
- Improve the efficiency and effectiveness of the enforcement of rules
- Tighten restrictions in a small number of areas where there was evidence of current fishing activities affecting sustainability, or having other negative impacts

All suggested changes were considered by a small committee made up of departmental and VFA staff, which considered how the changes overall would contribute to the government's objectives for regulating fisheries.

The outcome of that process is that the Regulations remain broadly effective, however a number of changes are proposed:

- Create three new licence classes and remove three redundant classes
- Amend regulations to commence transition to electronic reporting of catch and effort and catch disposal information for certain fisheries
- Expand mandatory use of vessel monitoring systems to key fisheries
- Make a number of other changes that are considered to have a relatively minor impact.

The impacts of these changes have been assessed against a set of descriptors and given a qualitative rating in accordance with the matrix provided at Table 17 in Appendix F.

4.4.1 Commercial fisheries and aquaculture licence classes

The commercial and aquaculture licences are defined in a number of ways, including by geographic area, equipment used or fish species, or a combination of these.

There are currently 721 licences issued across 42 licence classes (see Appendix B).

The individual fisheries have emerged over time, mostly due to the need to tailor some controls to specific fish species or locations and/or to make enforcement of the conditions for each fishery easier. This current structure of the licence classes (and indeed the complex structure of the current Regulations themselves) reflects historical developments of when and in what context licence classes were first created and granted.

While the Regulations could define the licence classes in different ways, there is a strong preference for maintaining the current licence structure as much as possible. Some licences are held in perpetuity or extend for a duration longer than the life of the regulations. Some licences are transferable and/or have quota attached and therefore have a value. Changes to the definition of licence classes may interfere with these.

The department and VFA have reviewed the current licence classes and consider they remain relatively fit for purpose. They are also well understood by fishers.

The department does not consider that the choice of licence class structure has a material impact on costs to industry. Of the 442 individual access licence holders, 347 (around 76 per cent) hold only one licence. The remaining 95 licence holders hold multiple licences (both within and across the current fisheries classes). The choice of licence class definitions may result in a small increase in compliance burden for licence holders that hold multiple licences (e.g., having to do separate catch and effort reports). However, the different characteristics of each fishery warrants different controls that need to be appropriately targeted.²² There is no common pattern of multiple licences held that suggests consolidation would be useful at this point in time. In any case, some of the regulatory burden should be reduced once electronic reporting is rolled out.

Therefore, the preference is to continue the current licence classes as they are now, with only a few removals and additions.

²² For example, equipment that is necessary in some fisheries would be inappropriate to use in other fisheries due to risk of by-catch, or safety. Also, different fisheries require different controls in terms of closed seasons and locations, due to individual breeding patterns.

Table 3: Proposed changes to commercial licence classes

Licence class	Rationale	Est. number fishers impacted	Qualitative rating				Overall expected Impact
			Cost	Support	Sustainability	Implementability	
Remove licence classes							
Revoke the Purse Seine (Port Phillip Bay) Fishery Access Licence class	The sole Purse Seine (Port Phillip Bay) Fishery Access Licence was surrendered as part of the election commitment to remove netting from Port Phillip Bay. The licence class is no longer required.	<5% of commercial fishers	None	Medium	Very high	Very high	No impact.
Revoke the Port Phillip Bay (Mussel Bait) Fishery Access Licence class	The previous sole licence holder had not fished the licence for several years and did not renew in 2018, meaning the licence class is no longer operational.	<5% of commercial fishers	None	Medium	Very high	Very high	No impact.
Revoke the Scallop Fish Receiver Licence class	Currently, the regulations stipulate that the Scallop (Ocean) Fishery Access Licence can only sell wild caught scallop to licensed scallop fish receivers who must complete a monthly return on the product received and sold. There is no longer a need for a scallop fish receiver licence as illegal laundering can be picked up if sales receipts and Catch Disposal Record requirements are in place. The Port Phillip Bay scallop dive fishery is not required to sell to a fish receiver.	<5% of commercial fishers	None	Very high	Very high	Very high	This is a regulatory reduction. There will be no direct impact on industry as the VFA has already issued exemptions from this requirement. As such, no scallop receiver licences are currently held by any person.

Licence class	Rationale	Est. number fishers impacted	Qualitative rating				Overall expected Impact
			Cost	Support	Sustainability	Implementability	
Create new licence classes							
Create a new Pīpi Fishery Access Licence class and fishery (to be quota managed) in accordance with the declared management plan	<p>A Fisheries Notice has been in place since 2013 to manage the small number of Ocean Fishery Access Licence holders that take pīpi for commercial purposes. Following stakeholder consultation, a management plan was approved in 2018 that proposed the creation of a stand-alone Pīpi Fishery Access Licence. The licence class will create an ongoing entitlement in the fishery and encourage development, stewardship and investment.</p> <p>An Independent Allocation Panel will provide advice on the eligibility criteria for a licence and the most appropriate method for allocating the pīpi resource amongst eligible licence holders. No other access licences will be able to take pīpi, as described in the Pīpi Management Plan which was subject to extensive stakeholder consultation.</p>	10% to 50% of commercial fishers	Medium	High	High	High	<p>A stand-alone licence will improve the management of the commercial harvest of pīpi and help ensure fishing remains sustainable and profitable.</p> <p>However, there will be some costs to establish the new licence class and the reporting systems to monitor harvest.</p> <p>There will also be costs associated with annual licence fees and levies. However, all existing fishers accessing this resource are currently paying fees and levies for an Ocean Fishery Access Licence. The additional costs cannot be quantified as the number of licence holders who will retain both licences is unknown.</p> <p>Pīpi as a species will be removed from the OFAL authorisations which will result in lost opportunity costs for some licence holders.</p>

Licence class	Rationale	Est. number fishers impacted	Qualitative rating				Overall expected Impact
			Cost	Support	Sustainability	Implementability	
Create a new Banded Morwong Fishery Access Licence class and fishery (to be quota managed)	<p>Permits have been issued to two Ocean Fishery Access Licence operators for close to twenty years to allow take of more than the prescribed daily catch limit of 2 banded morwong. To create an ongoing entitlement in the fishery and encourage ongoing development, stewardship and investment, it is proposed to create a banded morwong access licence with similar arrangements to the current permit. The new fishery will operate in East Gippsland.</p> <p>An Independent Allocation Panel will provide advice on the eligibility criteria for a licence and the most appropriate method for allocating the banded morwong resource amongst eligible licence holders.</p>	10% to 50% of commercial fishers	Low	High	High	High	<p>A stand-alone licence will improve the management of the commercial harvest of banded morwong and help ensure fishing remains sustainable and profitable.</p> <p>However, there will be some costs to establish the new licence class and the reporting systems to monitor harvest.</p> <p>There will also be costs associated with annual licence fees and levies. However, all existing fishers accessing this resource are currently paying licence fees and levies for an Ocean Fishery Access Licence.</p> <p>There would be no relative impact on the existing access licence classes that are currently authorised to take banded morwong.</p>

Licence class	Rationale	Est. number fishers impacted	Qualitative rating				Overall expected Impact
			Cost	Support	Sustainability	Implementability	
Create an Octopus Fishery Access Licence class and fishery (to be quota managed)	<p>There has been a significant increase in the targeted harvest of octopus by the Ocean Fishery Access Licence (OFAL) licence class in the last few years. There have been requests from industry to establish new commercial access to the developing octopus industry. To create an ongoing entitlement in the fishery and encourage ongoing development, stewardship and investment, it is proposed to create an octopus access licence that is separate from OFAL. It will also help manage potential risks to octopus stocks in Victoria through a regulatory scheme specifically designed for this fishery.</p> <p>It is proposed that the fishery will be managed by three zones initially, and transition to modern fisheries management requirements including electronic catch and effort reporting and use of vessel monitoring systems. A conservative total allowable catch will be set in the first instance.</p> <p>There have been a small number of OFAL holders who have targeted octopus in recent years. An Independent Allocation Panel will provide advice on the eligibility criteria for a licence and the most appropriate method for allocating the octopus resource amongst licence holders.</p>	10% to 50% of commercial fishers	Medium	High	High	High	<p>A stand-alone licence will improve the management of the commercial harvest of octopus and help ensure fishing remains sustainable and profitable.</p> <p>However, there will be some costs to establish the new licence class and the reporting systems to monitor harvest.</p> <p>There will also be costs associated with annual licence fees and levies. However, all existing fishers accessing this resource are currently paying licence fees and levies for an Ocean Fishery Access Licence. The additional costs cannot be quantified as the number of licence holders who will retain both licences is unknown.</p> <p>Octopus as a species would be removed from the OFAL authorisations which will result in lost opportunity costs for some licence holders.</p> <p>No change is proposed for the recreational bag limit.</p>

4.4.2 Electronic reporting

The VFA currently prints and provides licensed commercial fishers with catch and effort record books or abalone docketts and each record is completed manually (i.e., in paper format) by fishers before being mailed to the VFA each month. The data are then manually entered into VFA databases by VFA staff. The only exceptions to this are the Port Phillip Bay Scallop Dive Fishery and Sea Urchin Fishery, which currently require electronic capture of data using an internet application that transfers the information automatically into the VFA's databases. Most aquaculture licence holders report production electronically through a web-based interface, however they also have the option of sending in a printed form.

The current Regulations are designed for a manual, paper-based reporting system. The proposed Regulations would enable electronic reporting for specified commercial licence classes that will transition to an electronic system (known as the eCatch application). Specified licence classes will include the abalone, rock lobster and giant crab fisheries, in addition to those classes already required to report electronically (i.e., Port Phillip Bay Scallop Dive Fishery and the Sea Urchin Fishery). Other commercial fisheries currently using a paper-based system will continue to be able to report in this manner. However, it should be noted that the VFA intends to transition all fisheries to electronic reporting over time, in consultation with industry.

eCatch will enable electronic reporting of catch and effort information for all specified licence classes. Data captured under this system will include information on the location, time, gear and method of fishing, as well as the amounts of fish landed or produced under each licence. Information on by-catch and interactions with protected species will also be captured under some licence classes. In the case of abalone, eCatch will also be used to report product transfer information between abalone access licences and abalone receivers. Rock lobster fishers will also be able to use eCatch to electronically report on mortalities in coffs and wet-wells.

The proposed Regulations are framed on the basis that electronic reporting will be required on 1 February 2020. However, the VFA will exempt all relevant licence classes from this requirement (except those already using an electronic system) in accordance with the commencement dates detailed below. Other fisheries are expected to be transitioned to electronic reporting systems in the future, in consultation with industry.

Table 4: Phased implementation of electronic reporting

Commercial Fishery Access Licence class	Expected commencement
Abalone	1 April 2020 (central and western zones) 1 April 2021 (eastern zone)
Giant crab	1 July 2020
Rock lobster	1 July 2020
<i>Scallop dive</i>	<i>already reporting electronically</i>
<i>Sea urchin</i>	<i>already reporting electronically</i>

The eCatch reporting application will be co-located in the cloud with other VFA systems supported internally under a service-level agreement, delivering service consistency, simplified integration, cost efficiencies and the ability to scale the service provision to VFA's future needs. The application's design aims to reduce the data entry effort for the fisher and improve the quality of the data stored by VFA, by prepopulating licensing data and providing data lists.

Electronic processes have the potential to reduce the administrative burden and reporting cost for industry. For each licence holder that changes from the paper-based system to electronic reporting, it is estimated to save the licence holder around 2 hours on average over the year from no longer having to submit monthly reports, and about 3 minutes per fishing day in using the electronic records rather than completing a paper record (and associated storage etc). This amounts to a saving of around \$195 per year per licence holder in saved time costs (see Appendix E for modelling assumptions). This is a conservative estimate given evidence from the Sea Urchin Fishery, which implemented electronic reporting in 2017. This fishery demonstrated electronic reporting was around half the cost of the paper-based system. In the first year, the savings may be slightly less as licence holders will need to become familiar with the electronic format and system, however VFA is providing guidance and assistance to make this as easy as possible. Once implemented across all planned licences, the use of electronic reporting is expected to result in aggregate savings of around \$39,000 per year.

Given the high value of abalone catches in Victoria, the abalone docket system provides an important check to ensure abalone is being taken legally by licensed fishers. A docket needs to be generated when abalone is provided to a receiver, which means that multiple dockets may need to be produced for each days catch. These records are currently managed on a hard copy basis that requires industry to complete the docket and submit it to the VFA who then manually enters the data into its databases.

Catch and effort and abalone docket data entry currently accounts for around 50 per cent of the VFA's Catch and Effort Unit's workload. Thus, if more fishers submitted reports electronically in the future, the Unit's workload could be reduced and/or re-directed to other activities supporting the sustainable management of fisheries, such as analysis of licencing data to assist with enforcement activities (the cost savings are not directly proportional to the number of licence holders using electronic reporting, as compliance effort varies across different fisheries. These estimated savings have been considered with regard to the particular fisheries that will use electronic reporting).

Therefore, overall the introduction of electronic reporting to more fisheries is expected to resulting in savings to both licence holders (in total around \$39,000 per year) and potential administrative efficiencies for the VFA.

4.4.3 Vessel Monitoring System requirements and removal of fishing notifications

Vessel monitoring systems (VMS) allow enforcement agencies to track and monitor the location and movements of vessels and use this information to direct their compliance activities more efficiently and to areas of higher risk. VMS is widely used by international, Commonwealth Government and state fisheries management agencies and is presently required in the Victorian Scallop Dive (Port Philip Bay) and Scallop (Ocean) fisheries. Victorian commercial fishers who also operate in Commonwealth fisheries will be familiar with VMS and have it installed on their vessels.

The VFA proposes that VMS be required in new fisheries, those that harvest priority species, are high value, are quota-managed, operate in areas where there may be conflict between stakeholders, have a high reliance on CPUE in stock assessments or already have VMS. The proposed Regulations will expand the requirement to install and operate a VMS to commercial abalone, Corner Inlet, giant crab, inshore trawl, rock lobster, sea urchin and Western Port/Port Philip Bay licence classes and require it in the proposed banded morwong and octopus fisheries. The VMS requirements for the scallop dive and ocean scallop will remain. The VFA estimates that approximately 185 additional vessels will be required to have VMS units installed.

The proposed regulations are framed on the basis that VMS will be required for these fishers on 1 February 2020. However, to help with the transition, the VFA will exempt all relevant licence classes from this requirement (except those already using VMS) in accordance with the implementation dates detailed below.

The VFA is committed to working with industry to ensure that operational safeguards and policies are in place before implementing VMS. The following expected implementation dates are, therefore, subject to change if necessary.

Table 5: Phased implementation of VMS

Commercial Fishery Access Licence class	Expected implementation
Abalone	1 April 2020
Banded morwong (new fishery)	TBA
Corner Inlet	1 July 2020
Giant crab	1 July 2020
Octopus (new fishery)	TBA
Rock lobster	1 July 2020
Scallop – ocean and dive (already have VMS)	1 February 2020
Sea urchin	1 July 2020
Trawl Inshore	1 July 2020
Western Port/Port Phillip Bay	1 July 2020

The cost to purchase, install and activate VMS equipment is approximately \$1,100 per unit. It is proposed that the VFA will pay for the upfront costs of the system at no cost to the licence holder to assist licence holder adoption of the technology with fishers being responsible for ongoing maintenance and replacement costs. Ongoing operating costs are about \$625 per system per annum,²³ which will be paid for by the VFA on behalf of licence holders, with this cost then being recovered from the affected licence holders through annual licence fees. This gives a total cost of the proposed new VMS requirements of around \$1.14 million over the ten years of the Regulations,²⁴ with the VFA meeting the upfront costs of \$203,500 and the remainder ultimately met over a ten-year period by licence holders that are required to have VMS.

Approximately 12 to 20 vessels that will require VMS under the proposed Regulations will already have it installed because they are also used in Commonwealth- managed fisheries. The cost of VMS for these vessels is paid for by the Australian Fisheries Management Authority (AFMA). AFMA will continue to pay the costs of VMS for dual endorsed fishers which reduces the incremental cost attributable to the Victorian Regulations by up to \$123,000 over ten years.

The proposed Regulations will also require licence holders to carry a form of communication that can be contacted by the VFA (e.g., a mobile phone, radiophone or satellite phone) when fishing. This will enable the VFA to contact the licence holder in the event that the VMS system fails. There may be some costs to fishers although it is expected to be minimal as most fishers already carry a mobile phone or radiophone for other communication purposes. Nevertheless, the costs to licence holders of having a means of communication to ensure VMS operates has been included in the costings of this RIS (see Appendix E), although in general they will have communications for a range of regulatory and operational purposes not specific to VMS.

The approach adopted is considered to be the least cost solution to implement VMS, relying on existing data platforms rather than requiring higher costs of a VMS-specific communications capability.

²³ The \$625 is comprised of the ‘airtime’ and the management fee (about \$120).

²⁴ Using a real discount rate of 4%.

However, the actual incremental cost may be less than currently estimated. VFA is working with airtime providers to explore options to reduce the equipment and airtime costs. This is particularly an issue for airtime as the existing plans assume that VMS units are turned on 24/7. This will not be the case in Victoria, so data requirements should be substantially lower. This means running costs could be lower than the above estimates.

Offsetting this cost to licence holders that have VMS installed will be a reduction in their administrative burden resulting from the removal of the requirements to, where applicable:

- *Prior-report their intention to fish*—Prior-reporting alerts the VFA to a fisher's intention to go fishing. VMS will alert enforcement officers when the unit is switched on and/or when the boat leaves port, making pre-fishing notifications unnecessary; and
- *Prior-report their intention to land catch*—Pre-landing reports alert the VFA to a fisher's intention to land catch. VMS will alert enforcement officers when a vessel approaches a port, making these notifications unnecessary.

Overall, the expanded use of VMS will lead to a reduction in at-sea compliance inspections, increased ability for the VFA to apply its resources to other fishery pressures including illegal fishing and greater, and greater community confidence that commercial fisheries are sustainably managed.

VMS will reduce the amount of time that Fisheries Officers spend searching for and identifying fishing vessels and the number of on-land and on-water inspections they undertake. This will allow officers to spend more time investigating non-compliance with the fisheries legislation and regulations. The amount of savings to industry and to the VFA will be assessed following implementation of VMS for each fishery, but it is the VFA's intention that the impact on fees will be at least cost-neutral under the current cost recovery policy.

The VFA considered making VMS use voluntary. This would, however, likely lead to mixed uptake of the technology with no increase in efficiency or reduced costs to the VFA or industry.

The VFA will work with industry to introduce VMS and ensure a smooth transition to this technology. The VFA is committed to working with industry to ensure that all necessary operational safeguards and policies are in place before implementing VMS and will put a strong focus on educating fishers rather than on enforcement.

4.4.4 Boat registrations

Under the current Regulations, all boats used for commercial fishing activities must be registered. Once registered, boats must display registration numbers specified by the VFA and in the stipulated manner. These arrangements are proposed to remain the same.

The purpose of boat registration and the display of a registration number is to make enforcement activities more efficient. By displaying a boat registration number, enforcement officers are able to easily identify a boat engaged in commercial fishing activity, and confirm it is operating within its authorisation, without the need to board the boat.

The aggregate regulatory burden of the requirements to register boats (including applications, renewal, transfers, and affixing of markings) is estimated to be around \$21,000 per year across all boats (see Appendix E). This is considered very small compared to the additional costs that would need to be incurred by VFA if it had to take more intensive enforcement activities to check compliance if boats were not easily identifiable. This additional cost has not been separately quantified, but it would be at a minimum an additional 2-3 enforcement officers, which costs would far exceed the registration compliance costs. Therefore, the registration requirements are a more efficient approach to enforcement.

In 2017-18, there were 34 new boat registrations and 424 renewals. Renewals must occur annually. While the registration period could in theory be longer, in practice boat registration renewals are done at the same time as licence renewals. This means licence holders do not need to keep track of different expiry dates and doesn't add materially to the compliance burden. As there would no real reduction in compliance burden associated with longer renewal periods, options for extending the duration of boat registrations have not been considered further in this RIS.

There are a small number of changes proposed that relate to boat registrations. These are expected to have no material additional cost burden, or a cost saving.

Table 6: Proposed minor changes to regulations relating to boat registrations

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Reduce the required minimum height of markings from 23 to 20 centimetres to reflect what is readily available commercially (i.e., lettering of 8 inches or 20.32 centimetres is more readily available)	The current Regulations specify the size of markings required to be displayed on the boat. However, 8 inches (20.32cm) is the largest lettering readily available commercially.	All commercial fishers	None	Very high	n/a	Very high	Reduces regulatory burden for all commercial fishers.
Prohibit boats displaying false markings	While the regulations specify arrangements for commercial fishing boat registration, there is a need to address a loophole associated with unregistered boats using false marks.	All commercial fishers	None	High	n/a	Very high	This amendment will mean enforcement officers do not have to prove a commercial fisher was fishing when they are out on the water using an unregistered boat.
Fisheries subject to VMS as classes of access licence must have the vessel specified on licence	Some commercial access licences are not currently required to have their boat specified on the licence. This change will assist enforcement officers in identifying when commercial fishing is occurring.	10% to 50% of commercial fishers	Low	Medium	n/a	High	Minor administrative burden for fishers in notifying the VFA. Assists enforcement officers.

4.4.5 Other proposed changes for commercial wild catch fisheries

There are a range of other changes proposed for commercial wild catch fisheries, that are expected to have small or minor impact, or a reduction in regulatory burden. These are outlined below.

Table 7: Proposed minor changes to regulations affecting commercial licences²⁵

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Increase the combined catch limit per fishing trip for gummy and school shark from 2 to 5 for ocean fishery, inshore trawl, rock lobster and giant crab licence classes *	Currently, the Ocean Fishery Access Licence has a combined catch limit of 2 for gummy and school shark. SIV has requested this be increased to 5 to help address concerns about wastage and loss of revenue from sharks that are caught but returned to the water. For fairness, the increase will also be applied to trawl (inshore), rock lobster and giant crab access licence classes which have the same existing catch limit of 2. The VFA has advised that the additional take would be sustainable and within the 40 tonne catch limit defined under the Offshore Constitutional Settlement agreement with the Commonwealth government.	5% to 10% of commercial fishers	None	High	High	Very high	Reduces regulatory burden.

²⁵ (*) denotes changes that were proposed by industry. All other changes were identified by the VFA.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Increase commercial minimum size limit for bluethroat wrasse from 28 to 30 centimetres	Industry is of the view that the market prefers fish of 30cm or larger and that higher prices can be sought for fish of this size. Increasing the minimum size limit will help improve the economic yield from the fishery through improved maintenance of the stock and reduced time and effort required to catch quality fish. Industry already applies this 30cm minimum size limit voluntarily.	5% to 10% of commercial fishers	Low	High	High	Very high	No material impact as only fish sized 30 cm and above are sold. The change will not apply to recreational fishers as this increase is not due to sustainability concerns. Recreational fishers will continue to have a 27cm minimum size limit which applies for all species of wrasse (excluding blue groper).
Require electronic mandatory reporting of the number and weight of dead rock lobster in coffs and wet-wells (for deduction from quota if reaching a threshold of 10 when unloading)*	Rock lobster that are stored in a coff or wet-well are currently not deducted from quota until they are landed. Mortality events in coffs and wet-wells currently impose a loss to the fishery but are not being included in mortality calculations. Accountability on the fisher/quota holder will improve handling/storage of rock lobster which may help reduce mortality events. It is proposed that if dead lobsters are found when unloading or inspecting a coff or wet-well, the fisher will be required to record this in an electronic coff or wet well register that is built in to the eCatch app (for subsequent deduction from quota if there are 10 or more found dead per unload).	10% to 50% of commercial fishers	Medium	High	Very high	High	The proposed threshold will ensure burden is minimised while encouraging better handling/storage of rock lobster and improved stewardship of the fishery.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Remove requirement for commercial licence holders to carry their licence	The physical carriage/possession of a commercial fishery licence on/in a boat, vehicle, premises or on a person is now considered obsolete as Fisheries Officers have electronic access to licensing information in real time.	All commercial fishers	None	Very high	n/a	Very high	Reduces burden for all commercial licence holders

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Require fish receipts or product movement record for all types of fish at any point in the market chain and ensure the information on these documents is standardised	<p>Illegal take for sale (i.e., unlicensed taking and selling fish) is emerging as a key area of concern for compliance staff. Without product movement records or sales receipts accompanying product in the market place, it is difficult for enforcement officers to prove who harvested the fish and whether they were licenced or not, once the product has been moved from the point of landing. Product movement records and sale receipts help reduce illegal take for sale by creating a paper trail that can track produce from the harvester to consumer. This paper trail provides documented proof that the product has been legally obtained by a licensed fisher, in accordance with their licence, at any point in the market chain.</p> <p>As there are currently inconsistent regulations relating to sales receipts for different types of fish (e.g., 'rock lobster receipts', 'scallop receipts', 'sea urchin receipts', 'abalone receipts' and no receipt requirements set out for other types of fish), it is proposed a consistent form of 'fish receipt' be required for all sales of fish at any point in the market chain.</p>	All commercial fishers	Medium	Medium	Very high	High	<p>Receipts are commonly required for tax purposes and used in normal business practice. The proposed Regulations will ensure these contain the information to support compliance activities (i.e., to assist matching receipts to specific fish), and therefore in most cases the regulation will only affect the information that is included on receipts. This may lead to increased time for people to prepare receipts, which is estimated at around \$200,000 per year (across commercial fisheries and aquaculture—see Appendix E).</p> <p>Exemptions are designed to ensure no unreasonable burden on businesses that sell fish for immediate consumption and will apply to consumers so that they do not need to possess the receipt where the fish has been acquired for consumption or as bait.</p>

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Replace Abalone Transfer Certificates and 'small sales returns' documentation requirements with fish receipts	These commercial documentation requirements were designed to create a paper trail associated with the sale of abalone to ensure illegally caught abalone could not be sold or traded. Several high value fisheries now require 'sales receipts' to create this paper trail and this system is working adequately. VFA has advised these two forms of documentation are no longer required due to the improved sales receipt requirements.	5% to 10% of commercial fishers	None	High	n/a	Very high	Reduces burden for licensed abalone receivers. Abalone transfer certificates will be transferred into the eCatch system which will reduce the amount of time required to provide this information. Also, small sales returns will no longer be required with fishers able to sell small quantities without the need to provide the VFA with a small sales return. Reduces burden for the VFA catch and effort team.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Remove requirements around abalone stock records and the use of 'trader identification numbers'	<p>The existing requirement for licensed Abalone Fish Receivers to provide the VFA, within 48 hours of request, the details set out in the regulations relating to stock records will be removed. Under current arrangements this can be requested up to six times per year. On transition to electronic reporting, Fisheries Officers will have access to product transfer information between abalone access licences and abalone receivers through the eCatch system in 'real time' and stock records are no longer important.</p> <p>Trader identification numbers are numbers issued by the VFA to every holder of a Fish Receivers' Licence and the licence holder's customers and suppliers of abalone, or every holder of an Aquaculture (Crown Land – Abalone) Licence or an Aquaculture (On-shore Abalone) Licence. This information is currently listed as part of abalone documentation and labelling requirements for traceability purposes. The VFA has advised these numbers are no longer required, and they can be replaced by the relevant licence number instead.</p>	5% to 10% of commercial fishers	None	High	n/a	Very high	This will reduce burden on licensed abalone receivers and Fisheries Officers.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Prescribe grounds for a licence holder to show sufficient cause why the licence should not be suspended	The VFA believes it is important to be able to suspend licences where appropriate if the person has failed to comply with a licence condition, the person has been found guilty of a relevant offence or is a fine defaulter arising out enforcement action taken by an authorised officer appointed by the VFA.	All commercial fishers	Low	High	n/a	Very high	Provides industry with clarity on when a licence may be suspended. Non-compliant fishers may be issued with show cause notices for suspension of their licence if they breach these newly prescribed grounds.
Prohibit transfer of fish at sea for all commercial licence classes	Several commercial fishing licence classes prohibit the transfer of fish at sea to ensure that fish are taken legally. However, there are number of inconsistencies in the way this rule is expressed across different licences classes.	>80% of fishers	None	Very high	Very high	Very high	No net change as all relevant fisheries currently have this requirement. This change simply expresses this requirement in a consistent manner across all licence classes. Relevant exemptions for tender boats will apply.
Allow a combination of longlines (with no more than 200 hooks) to be used under the Ocean Fishery Access Licence	The VFA recently approved an exemption from the single long line restriction for one operator. As the combined total of 200 hooks will continue to apply, there are no significant sustainability or environmental concerns. This regulatory change will create consistency for the entire fishery.	5% to 10% of commercial fishers	None	High	n/a	Very high	Reduces burden for commercial fishers in the Ocean Fishery Access Licence class.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Update authorised activities and licence conditions for the Western Port/Port Philip Bay access licence class	This change authorises the use of a long-line as equipment for Western Port/Port Philip Bay licences; this is currently permitted through a condition on the actual licence. It also removes references to 'longline team fishing operations', which used to be carried out jointly by 2 or 3 licences. This will no longer be permitted.	<5% of commercial fishers	None	High	n/a	Very high	Administrative change only – no impact.
Consolidate the common reporting requirements and processes for commercial fisheries into a single location in the Regulations	There is significant duplication throughout the regulations, as well as inconsistent processes across different fisheries. This proposal will consolidate processes where appropriate, such as for pre-fishing notifications, landing and weighing (including time of weighing requirements), catch and effort reporting, catch disposal requirements and sales receipts.	All commercial fishers	None	High	Very high	Very high	Reduces burden for all commercial fishers by improving the consistency of the regulations and removing duplication. May lead to increased compliance across all licenced fishers.
Simplify the layout of commercial fishing licence condition processes so that they are in chronological order (from pre-fishing to weighing and reporting)	This proposal will structure key commercial licence conditions in chronological order.	All commercial fishers	None	High	Very high	Very high	Reduces burden for all commercial fishers by improving readability and may lead to better understanding and compliance with the laws by fishers.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Reduce minimum legal size for commercial take of male giant crab from 15 to 14 centimetres	By lowering the male size limit, males may account for a larger proportion of the quota, which would in turn reduce pressure on larger females and thus increase egg production and subsequent recruitment.	5% to 10% of commercial fishers	Low	High	High	Very high	Industry (which includes the sole focussed giant crab operator and some rock lobster fishers) is generally supportive of this reduction and believes it will benefit the fishery. The increase in economic benefit will result from better winter fishing when prices are at their premium and a greater portion of giant crabs in a size grade that demands the highest price. Also aligns with management arrangements in Tasmania (also 14cm size limit for males).
Standardise restrictions on bait licences to ensure bait is not taken or sold for human consumption	This will clarify the purpose of the four classes of bait licence that do not currently state that the taking and selling of fish for human consumption is prohibited.	<5% of commercial fishers	None	High	n/a	Very high	Little / no impact as bait fishers should not be selling product for human consumption (i.e., bait licences are not intended to circumvent or compete with wild catch fisheries who sell product for human consumption).

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Clarification/amendment of 'fishing trip' limits to 'daily limit' for several commercial fisheries.	Bug, shark and other species have catch limits set consistently across several commercial fisheries. However, there is an inconsistency in that some catch limits for fisheries refer to 'during any fishing trip', whilst others refer to 'on any day'. The regulations did not intend for multiple commercial fishing trips in a single day.	All commercial fishers	None	High	n/a	Very high	Little impact as there have not been many known occurrences of fishers undertaking multiple trips in a single day.
Update the permitted bait species that may be taken by commercial bait fishers	The current wording of permitted bait species is too general and it is unclear what species may be caught. The bait schedule has been updated accordingly.	<5% of commercial fishers	None	High	n/a	Very high	Little / no impact. The VFA has advised the revised schedule covers all bait species currently caught and recorded in log books over last 5 years.
Simplification of conditions relating to damaged and stolen fisheries documents for commercial fishers	This change will consolidate regulations that relate to how commercial fisheries documents are to be handled and will remove the need to report theft of documents to Police. The requirement to notify the VFA of such incidences will be retained.	All commercial fishers	None	Very high	n/a	Very high	Mostly administrative changes. Reduces burden for all commercial fishers in the event of theft.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Require all licence classes except Bait (General) and the Ocean Fishery Access Licence to have any licence operator authorised by the VFA and specified on the licence	The majority of commercial access licence classes are currently required to list any operators on the licence. However, several fisheries allow a person, other than the licence holder, to operate the licence without that person being listed on the licence and having passed a fit and proper test. This creates a compliance risk for these fisheries and a safety risk for Fisheries Officers.	50% to 80% of commercial fishers	Low	Medium	n/a	High	Assists with accountability and reduces risk to the safety of Fisheries Officers inspecting operators in these two fisheries. The process for operators requires an application form and fee, the operator must obtain a current National Police Check, complete the Fit and Proper Declaration (Form 35) and usually a new entrant interview. It is expected there will be around 10 operators that will need to become listed on the licence.
Bring the Commercial Snapper Catch Limit Fisheries Notice into the regulations	A Commercial Snapper Catch Limit Fisheries Notice has been in place for several years which sets management arrangements for the trawl (inshore) fishery, including limiting the amount of snapper to be taken. These controls are now well established and will be included in the regulations.	5% to 10% of commercial fishers	None	High	High	Very high	Administrative change only - no relative impact. Reduces the administrative burden on the VFA and provides certainty to fishers regarding the management arrangements.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Remove octopus as an authorised species in the Ocean Fishery Access Licence	As noted in section 4.3.1, a separate Octopus Fishery Access Licence class and quota managed octopus fishery are proposed to be established. There is therefore a need to adjust the Ocean Fishery Access Licence to reflect this change.	10% to 50% of commercial fishers	Medium	Medium	n/a	Very high	This will result in lost opportunity costs for some licence holders.
Remove pipi as an authorised species from all licence classes (where previously authorised)	As noted above, a separate Pipi Fishery Access Licence class and quota fishery are proposed to be established. There are eleven classes of fishery access licences that authorise commercial pipi harvest. Most of these licence classes, however, cannot be used to harvest pipi due to equipment restrictions and/or because the licence does not authorise fishing in areas where pipi are found. There is therefore a need to adjust the authorisations of other licence classes to reflect the removal of pipi.	10% to 50% of commercial fishers	Medium	Medium	n/a	Very high	This will result in lost opportunity costs for some licence holders.
Remove the scallop dive zones and annual report requirement regulations from the Scallop Dive (Port Philip Bay) Fishery Access Licence class	With the transition of this fishery to an annual catch cap, the requirement to restrict harvesting to one zone per fishing trip is no longer required.	<5% of commercial fishers	None	High	Very high	Very high	Reduced compliance burden for the licence holder.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Include additional ports in the relevant schedules where access licences including scallop dive (PPB), rock lobster and abalone can land their catch	Several commercial fisheries are required to land catch at specified locations to facilitate compliance checks and minimise costs associated with these checks. Industry representatives have requested that product be permitted to be landed at a number of additional ports.	10% to 50% of commercial fishers	None	High	n/a	Very high	Reduces burden for a moderate number of commercial fishers by making it more convenient to land catch.
Enable the VFA to exempt a licence class from a regulation	The VFA has the ability to exempt individual fishers from the requirement to comply specified regulations. This can be administratively cumbersome where all licence holders in a licence class need to be given an exemption. The proposed change will broaden this power to enable the VFA to provide exemptions to both individual licence holders and to all licence holders within a licence class, as the case may be.	All commercial fishers	None	Very high	High	Very high	Has the potential to reduce the compliance burden for all commercial licence holders.
Standardise accuracy requirements for fish weights	Several commercial fisheries are currently required to ensure weight measurements of fish are within a specified accuracy range. This level of accuracy varies between fisheries and in some cases is unnecessarily restrictive. The proposed regulations will standardise the accuracy level to within 1 kilogram of the actual weight of the fish.	50% to 80% of commercial fishers	None	High	High	Very high	Reduces compliance burden for majority of fishers and recognises the difficulties associated with accurately weighing certain fish.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Clarify that commercial licence holders cannot fish in aquaculture reserves unless authorised to do so.	The current regulations prohibit commercial fishing in aquaculture reserves (unless authorised to do so). The wording used to create the prohibition is used inconsistently throughout the regulations and is missing from some classes. A standardised regulation clarifying this prohibition will be created.	All commercial fishers	None	High	n/a	Very high	Administrative change only - clarifies that fishers are not permitted to fish in aquaculture reserves unless authorised to do so.
Clarify the definition of a trammel net	The current definition of a trammel net is vague and requires updating.	<5% of commercial fishers	None	High	n/a	Very high	Administrative change only - clarifies the definition of a trammel net.
Clarify the number of licence operators and crew that may be used under each fishery access licence class.	The current regulations specify the number of licence operators and crew that may be used under some fishery access licence classes. However, this restriction is missing from some classes and it is unclear how many operators or crew may be used. The proposed regulations will clarify the existing arrangements.	All commercial fishers	None	Medium	n/a	Very high	Administrative change only - clarifies the existing arrangements.

Proposed change	Rationale for change	Est. no. fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Create a new offence for defacing or interfering with a fisheries-related sign (e.g., a sign erected by the VFA to detail catch limits)	Signs, such as those explaining changes to the catch limits and handling of fish can be costly to erect and maintain. A new offence will be created to prohibit interference with a fisheries-related sign. The frequency of interference with such signs is not currently high, although where it does occur it makes enforcement of other regulations more difficult, and there is a cost for VFA to replace the signs.	All commercial fishers	None	Very high	n/a	Very high	Not expected that this will have a real cost on any person—it is expected that non-compliance with this new requirement will be rare—however it will assist in enforcement and safety.
Restrict the amount of berley used in Port Phillip Bay, Western Port Bay, Gippsland Lakes, any inlet of the sea or within 1 nautical mile of the coastline or any island will be limited to 10 litres	Unlimited berley in close proximity to populous areas has the potential to attract sharks and cause safety concerns. The proposed change will still allow the use of berley but will limit the amount permitted to help reduce the risk. Outside the specified areas, there is no restriction on the amount of berley that can be used.	10% to 50% of commercial fishers	None	High	n/a	Very high	Little / no impact.
Allow Wrasse (Ocean) Fishery Access licences to be held by a corporation.	The current restriction on the sale or transfer of wrasse licences to persons only is considered as unnecessary red tape.	<5% of commercial fishers	None	Medium	n/a	Very high	Provides licence holders with more flexibility when selling or transferring the licence.

4.4.6 Proposed changes for aquaculture

There are a small number of changes proposed for aquaculture fisheries that are expected to have a small or minor impact or regulatory burden. These are outlined below.

Table 8: Proposed minor changes to regulations affecting aquaculture licence holders

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Update the information requirements included in aquaculture production returns	Removes redundant information required to be provided by aquaculture licence holders and will now require the average price obtained for each species per year (collection of this data will assist in providing a more objective calculation of GVP, which has flow-on impacts on the FRDC levies paid by aquaculture licence holders).	All aquaculture producers	None	Very high	n/a	Very high	Minor impact.

Proposed change	Rationale for change	Est. number fishers impacted	Qualitative rating				Overall expected impact
			Cost	Support	Sustainability	Implementability	
Require a consistent form of fish receipts or product movement record for all types of fish at any point in the market chain	<p>Illegal take for sale (i.e., unlicensed taking and selling fish) is emerging as a key area of concern for compliance staff. Without product movement records or sales receipts accompanying product in the market place, it is difficult for enforcement officers to prove who harvested the fish and whether they were licenced or not, once the product has been moved from the point of landing.</p> <p>Product movement records and sale receipts help reduce illegal take for sale by creating a paper trail that can track produce from the harvester to consumer. This paper trail provides documented proof that the product has been legally obtained by a licensed fisher, in accordance with their licence, at any point in the market chain.</p> <p>As there is currently inconsistent regulations relating to sales receipts for different types of fish, it is proposed a consistent form of 'fish receipt' be required for all sales of fish at any point in the market chain. This will include fish sold or transferred from aquaculture facilities.</p>	All aquaculture producers	Medium	Medium	Very high	High	Small incremental burden. Receipts are commonly required for tax purposes and are used as normal business practice. The proposed Regulations will ensure these contain the information to support compliance activities (i.e., to assist matching receipts to specific fish), and therefore in most cases the regulation will only affect the information that is included on receipts. This may lead to increased time for people to prepare receipts, which is estimated at around \$200,000 per year (across commercial fisheries and aquaculture—see Appendix E).

5 Objectives of the proposed Regulations

A RIS must set out the objectives of the proposed statutory rule, that are consistent with the authorising legislation. The objectives should also be consistent with any relevant existing policies and broader government objectives.

5.1 Objective of the Act

The *Fisheries Act 1995* (the Act) establishes a legislative framework for the regulation, management and conservation of Victoria's fisheries. The Act aims to:

- provide for the management, development and use of Victoria's fisheries, aquaculture industries and associated aquatic biological resources in an efficient, effective and ecologically sustainable manner
- protect and conserve fisheries resources, habitats and ecosystems including the maintenance of aquatic ecological processes and genetic diversity
- promote sustainable commercial fishing and viable aquaculture industries and quality recreational fishing opportunities for the benefit of present and future generations
- facilitate access to fisheries resources for commercial, recreational, traditional and non-consumptive uses
- promote the commercial fishing industry and to facilitate the rationalisation and restructuring of the industry
- encourage the participation of resource users and the community in fisheries management.

5.2 Objectives of the proposed Regulations

Consistent with the Act, the aims of the proposed Regulations are to:

- enable recreational fishing, commercial fishing and aquaculture to occur in Victoria in an efficient, effective and ecologically sustainable manner
- protect and conserve fisheries resources, habitats and ecosystems including the maintenance of aquatic ecological processes and genetic diversity
- promote sustainable commercial fishing and viable aquaculture industries and quality recreational fishing opportunities for the benefit of present and future generations
- facilitate access to fisheries resources for commercial, recreational, traditional and non-consumptive uses.

The way in which the Regulations do this must also have regard to other objectives of the Act, namely:

- to promote commercial fishing and aquaculture industries
- to encourage the participation of resource users and the community in fisheries management.

In practical terms, this means the objectives of the proposed Regulations are to:

- facilitate the licensing of recreational and commercial fishing and aquaculture industries in Victoria
- support the effective and efficient management of the state's fish resources and development of a viable and sustainable aquaculture industry.

5.3 Broader government objectives

The Victorian Government has recognised the socio-economic benefits of recreational fishing and has invested strongly in fishing initiatives over the past decade, with \$46 million recently allocated for the *Target One Million* initiative to get more Victorians fishing more often. Key measures delivered under the Target One Million plan include:

- halting commercial netting in Port Phillip and Corio Bays over eight years
- establishing the Victorian Fisheries Authority as a statutory authority
- establishing a Better Fishing Facilities Fund
- increasing fish stocking to 5 million fish per year
- opening recreational trout cod fisheries in Beechworth
- allocating 'Stronger Fishing Club' grants
- delivering school education and children's fishing programs.

The Victorian Government also recently announced the *Better boat ramps, free parking and more fish for Victorians* commitment to further enhance opportunities and encourage participation in recreational fishing in Victoria. This commitment includes \$35 million for recreational fishing initiatives and will build on the success of *Target One Million*. Key deliverables under this new commitment include:

- a massive boost to fish stocking with a record 10 million fish stocked by 2022. This will mean more fish to catch and more tourism for fishing towns
- building a \$7 million native fish hatchery in Shepparton
- a compulsory buy-out of the ten remaining Gippsland Lakes Fisheries Access Licences. This will return the lakes system to recreational fishing to boost local tourism and jobs.

The Victorian Government has also for the first time created a Ministry for Fishing and Boating in recognition of the important contribution that fishing and boating makes to the Victorian economy each year.

The government supports commercial fishing and aquaculture production and, together with the broader seafood industry, has worked to ensure Victoria's fisheries and aquaculture businesses are viable, profitable and sustainable for future generations. Measures to support commercial fishing and aquaculture include:

Cutting red tape for fishing businesses

- Removed Primesafe licence requirements for live abalone and lobster
- Permitted the sale of small quantities of fresh abalone sold direct from the boat to the public
- Equipped abalone and rock lobster fishers with new technologies to trial
- Developing a modern electronic reporting system – eCatch
- Introduced licence fee concessions for small operators

Managing fisheries for the future

- Provided ongoing high-quality fisheries management services
- Developed and updated management plans in partnership with industry:
 - Rock lobster Management Plan and Harvest Strategy

- Eel Management Plan
- Victorian Pipi Fishery Management Plan
- Abalone Management Plan & Draft Harvest Strategy
- Delivered Ocean Scallop fishery stock assessment
- Implemented Australia's first recreational rock lobster tagging program

Creating new opportunities for seafood businesses

- Trialled small fisheries for periwinkles and octopus
- Enabled transferability of wrasse licences
- Allowed for the commercial harvest of urchins to protect our seagrass from overgrazing
- Promoting Victorian fish to the community
- Sponsored events:
 - Hooked on Lakes Entrance, Hooked on Portland and Hooked on Bellarine
 - Apollo Bay Seafood Festival
 - San Remo Fishing Festival
 - Mallacoota Seafood Festival
 - Seafood Directions 2019
- Connected chefs with seafood producers

Growing aquaculture opportunities

- Developed Victoria's aquaculture strategy
- Allocated new aquaculture leases in Port Phillip Bay
- Supported the increased production of barramundi, abalone, mussels and trout

Supporting our professional fishers

- Established protected species reporting arrangements and identification guide
- Finalised policy for undertaking seismic surveys in Victorian waters.

6 Options

This RIS identifies three options for the overall approach to how fisheries should be regulated. These options are outlined in this chapter. In the next chapter, these options are assessed against a ‘base case’ of not making any regulations.

However, within each of these high-level approaches, there are many individual elements and choices about which of these elements should be included in the preferred option. There is a large number of combinations these individual elements that could be chosen.

To simplify the analysis, the following options assume the same restrictions on fishing and production activity (for Options 1 and 2) and the same mandatory compliance requirements (for Option 1 only) as the current Regulations when combined with the proposed changes outlined in Chapters 3 and 4. Chapters 3 and 4 also outline the rationale for the proposed changes.

The assessment of options in the following chapter (and costing assumptions in Appendix E) will allow stakeholders to understand the costs and benefits of the different components that make up each option, and to comment on the merits of each element.

6.1 Base case

The base case, against which options have been assessed, is the case of letting the current Regulations lapse without replacement. This would mean that fisheries and licence classes are no longer defined, and therefore no recreational or commercial fishing or aquaculture would be authorised under the Act.

6.2 Feasible options

To allow recreational and commercial fishing and aquaculture to occur—the primary purpose of the Act—regulations are needed to define the fisheries and licence classes. This then allows authorisation to be given under the Act. Therefore, all feasible options must include defining the various fisheries and licences. For each of the recreational and commercial sectors, the appropriate structure of the licence classes is discussed in Chapters 4 and 5 of this RIS.

The fundamental options to be considered in this RIS are about *how* the fisheries should be regulated.

6.2.1 Option 1—Restricted licences with compliance requirements

Make regulations that allow recreational and commercial fishing and aquaculture to occur, but within clearly defined restrictions. These restrictions are aimed at achieving the objectives of the Act, including the sustainability of fish resources, managing environmental impacts, avoiding conflict between commercial and recreational uses and safety.

In addition, there are additional measures to support enforcement—see Table 9. The compliance requirements are intended to make it easier to ensure compliance with the restrictions (and any other licence conditions) and to take appropriate enforcement actions if non-compliance is detected.

Table 9: Types of regulations included in Option 1

Types of restrictions on fishing/production activity	Types of compliance requirements
When and where the licences can be used What fish can be caught or grown (species, size, catch limits) What equipment can be used Controls on growing and translocation	Restrictions on number of commercial fishers and number and timing of commercial trips Marking of equipment and boats Registration of boats Use of vessel monitoring systems Notification of fishing activity and landing catch Reporting on catch and effort/production Fish receipts, catch disposal records, product movement records and stock records Marking of containers/packaging Administrative actions (change of name, transfer of licence, return of records)

The approach to regulation under this option—restrictions on actual fishing and production activity combined with mandatory compliance obligations to assist enforcement— is the same as the current Regulations (i.e., the status quo). However, in the assessment of these options, this option will include the various proposed changes outlined in Chapters 3 and 4 that were considered to:

- simplify requirements, to make them easier to understand and comply with
- improve the efficiency and effectiveness of the enforcement of rules
- tighten restrictions in a small number of areas where there was evidence of current fishing activities affecting sustainability, or having other negative impacts.

6.2.2 Option 2—Restricted licences with no other compliance requirements

Make regulations that allow recreational and commercial fishing and aquaculture to occur, the same as Option 1.

Other than meeting these restrictions, recreational fishers and commercial licence holders would not need to do any further mandatory requirements to demonstrate compliance or assist with VFA enforcement activities. Enforcement of these restrictions would rely on VFA officers directly monitoring activity to detect non-compliance. A high level of direct monitoring would be required to achieve acceptable compliance rates.

Table 10: Types of regulations included in Option 2

Types of restrictions on fishing/production activity	Types of compliance requirements
When and where the licences can be used What fish can be caught or grown (species, size, quantity of catch) What equipment can be used Controls on growing and translocation	None

6.2.3 Option 3—Unrestricted licences

Make regulations that allow recreational and commercial fishing and aquaculture activities to occur without any limitations or controls. The amount of catch would be effectively unrestricted, as would the types of equipment that could be used, the size of fish able to be caught, and where and when fish could be caught, grown or translocated.

If the Regulations did nothing more than define the licence classes, it may be possible to impose other requirements on licence holders through licence conditions or Fisheries Notices. For the purpose of comparing these different approaches to regulation, it is assumed that under this option, no further controls would be introduced under these mechanisms.

6.3 Non-feasible options

As regulations are required to allow fishing to occur, a non-regulatory option is not feasible. A hybrid approach, whereby licensing/authorisation is done through regulations, but other elements (such as use of equipment and catch limits) are managed through non-enforceable guidelines only, is considered not practical and would not meet the objectives of the Act. This approach would provide incentive to exploit our fisheries resources without reprisal. The fishing industries and other stakeholders also support the use of regulations for clarity, transparency and integrity of licensee rights.

Introducing a cap on the number of people who may fish recreationally has not been considered as it is inconsistent with government policy and is not practically feasible.

7 Assessment of options

7.1 Option 1 (restricted licences with compliance requirements)

Option 1 is broadly the same as the current Regulations (with a number of amendments as outlined in Chapters 3 and 4). The benefits of this option are:

- It facilitates access to fisheries resources for commercial, recreational and traditional owner uses. Each of these uses has both economic and social benefits, as discussed in Chapters 3 and 4.
- It provides for ecologically sustainable management of the state’s fish resources and manages environmental impacts.

The limits that affect the amount of fish that can be caught (either directly through catch limits or indirectly by controlling types of equipment, location, time, etc) are not a direct cost or burden on the sector, but an opportunity cost. However, compared to the base case (where no licence classes exist and no fishing or production could occur), the regulations that affect the amount of fish caught are not considered a cost, but affect the potential benefits.

The overall benefit of Option 1 is expected to be broadly similar to the current level of fishing and production (ignoring other external factors that influence the amount of catch) as discussed in Chapters 3 and 4. However, the size of the benefits of this option are also affected by the proposed changes to the Regulations outlined in Chapters 3 and 4. The specific changes that are expected to affect the overall level of recreational fishing and commercial catch and production are outlined in the following table.

While the impact of these changes has not been quantified, each of these changes is expected to be very small, and in practice only affect a relatively small number of fishers. In net terms, these changes are expected to allow increased fishing activity, albeit not a significant change from current levels. The rationale for each of these changes, and the assessment of the costs and benefits of them, was considered in Chapters 3 and 4.

Table 11: Proposed changes that may affect the level of fishing activity, catch or production

Improve recreational fishing opportunities	Further restrictions on recreational fishing opportunities
Remove the salmonid closed season for Mt Emu Creek and the Moyne river Allow the use of barbed flying gaffs Change the current default daily bag limit for goatfish (fish of the family Mullidae) from 5 to 20 Remove the quantity limit on particular hand-held recreational fishing equipment that may be used Amend the definition of recreational hand-held spear so that more than 2 prongs and barbs are allowed. Increase the recreational fishing bag limit for sea urchins from 20 to 40	Prohibit tethering of fish (this change will result in positive animal welfare outcomes) Reduce bag/ possession limit of Macquarie perch in the Yarra River to zero (minor impact) Reduce the bag limit from 5 to 2 and increase the size limit from 23cm to 30cm for river blackfish (very minor burden, but improves sustainability in the longer term) Limit the amount of berley used to 10 litres in Port Phillip Bay, Western Port Bay, Gippsland Lakes or any inlet of sea or within 1 nautical mile of the coastline or island (minor burden, improves safety for bathers)

Improved commercial fishing opportunities	Further restrictions on commercial fishing opportunities
<p>Increase the combined catch limit for gummy and school shark from 2 to 5 for Ocean Fishery Access Licence holders, as well as for licence holders in the inshore trawl, rock lobster and giant crab fisheries</p> <p>Allow a combination of longlines (with no more than 200 hooks) to be used under the Ocean Fishery Access Licence</p> <p>Reduce the minimum legal size for commercial take of male giant crab from 15 to 14 centimetres</p>	<p>Increase the commercial minimum size limit for bluetthroat wrasse from 28cm to 30cm (likely to have very minimal impact in practice).</p>

These benefits will only be achieved if there is a high level of compliance with the restrictions on fishing activities.²⁶ The costs of achieving this high level of compliance are:

- Costs to licence holders of undertaking the various mandatory compliance requirements
- Costs to VFA of monitoring fishing activity across the state.

The department asked SIV to provide insights on typical compliance burdens for commercial licence holders. However, information on the costs were not received. As such, many of the costs had to be estimated based on the known number of licences and/or transactions, known level of fishing activity and production, and a desktop exercise of the reasonable time and/or financial cost of meeting each requirement. These estimates were validated by VFA officers familiar with each compliance requirement.

The total estimated cost of the compliance elements of this option is around **\$1,449,931 per annum**, plus a **once-off cost of \$203,500** for the initial purchase of VMS systems. This is a total cost over the ten years of the proposed Regulations of **\$11.9 million** (NPV, using a discount rate of 4 per cent), or an annualised cost of \$1.2 million per year. See Appendix E for the estimate of cost for each component.

There is also a minor compliance cost for some recreational fishers. The proposed Regulations will continue the current requirement for recreational fishers to place a tag (indicating their name and address) on any recreational hoop net, open top lift net or bait trap that is set from a boat or if the person is not in attendance of that net or trap when being used. This is to enable Fisheries Officers to enforce compliance with the equipment restrictions should the owner if the equipment not be immediately obvious. The cost of this requirements has not been quantified, but is expected to be very minor—consultation indicated that this equipment is not widely used, and in most cases recreational fishers would already mark their own equipment in these circumstances.

Some of the proposed changes to the Regulations (see Chapters 3 and 4) are reflected in this total cost estimate. Key changes expected to reduce the overall compliance burden are:

- Include a volume (0.5L) as a catch limit method for bass yabby (shrimp) to replace the current number limitation—this reduces the burden for recreational fishers and enforcement officers by providing a simpler means of determining an amount for these small species. The extent to which this reduces burden has not been quantified but it is expected to be a very small reduction

²⁶ Even with a very strong enforcement regime, there will always be some non-compliance that is not detected. VFA aims to minimise this, and believes the proposed changes to the Regulations will further enhance detection of non-compliance, and strengthen the ability to take action where non-compliance is identified.

- Remove requirement to carry abalone measuring instrument when taking abalone recreationally—this reduces the burden on recreational fishers, although the impact is expected to be very small
- Remove requirement for commercial licence holders to carry their licence— this reduces burden for access licence holders and licensed fish receivers, as Fisheries Officers have electronic access to licensing information in real time. The extent to which this reduces burden has not been quantified but it is expected to be a very small reduction
- Facilitate the transition to electronic catch and effort records—this is expected to reduce the cost to VFA of compliance activities across the sector by around \$100,000 to \$200,000 per year once fully implemented and any transition arrangements have been completed
- Some reduced notification requirements for boats fitted with VMS. The extent to which this reduces burden has not been quantified but it is expected to be a small reduction.

Proposed changes that are expected to increase the compliance burden on licence holders are:

- Expansion of the requirements for VMS—a total cost of the proposed VMS requirements of around \$1.2 million over the ten years of the Regulations (see Chapter 4). As discussed in Chapter 4, this cost is expected to be offset in the long term by a reduction in VFA compliance activities and the ability for the VFA to direct its resources at other fishing pressures such as illegal fishing, which would be reflected in lower licence fees.
- Require sales receipts for all types of fish at any point in the market chain—a small incremental burden. Receipts are commonly required for tax purposes, or used as normal business practice. The proposed Regulations will ensure these are produced and made available for inspection, and may affect the information to be included on the receipt. Exemptions will apply to ensure there is not unreasonable burden on consumers and restaurants.²⁷
- Require scallop (ocean) and trawl (inshore) licence classes to have any licence operator authorised by the VFA and specified on the licence—the application process for operators requires an application form and fee, the operator must obtain a current National Police Check, complete the fit and proper person declaration and possibly a new entrant interview. It is expected there will be around 10 operators that will need to become authorised.

There are also costs to government associated with this option. These costs relate to the costs of VFA enforcement of the Regulations. This is estimated at around \$13 million per year. These costs are partially recovered from industry through levies on commercial wild catch licence holders and Recreational Fishing Licence fees. Based on the proposed changes to the Regulations, the cost to the VFA of administering and enforcing the Regulations is expected to decrease slightly compared to current costs.

7.2 Option 2 (restricted licences)

This option would *allow* the same amount of overall catch and production as Option 1, but remove the obligations on licence holders related to ensuring compliance with the controls on fishing activity and production.

²⁷ A person who sells fish for immediate consumption in a restaurant or café will be exempt from the requirement to issue a fish receipt. A person who has purchased or otherwise acquired fish for consumption or as bait and not for: resale, transportation, processing or storage for reward will be exempt from the requirement to obtain and possess a receipt. Other exemptions will apply to commercial licence holders as they may have other documentation requirements—e.g., abalone receivers. Access licence holders and aquaculture licence holders will be exempt from having a receipt when possessing fish they have taken or produced as it is their normal business.

For recreational fishing, it is expected there would be no material change in costs or benefits from Option 1. Enforcement of recreational fishing requirements already relies on VFA officers monitoring and checking recreational activity where it occurs.

For commercial fishing and aquaculture, this option means there are two possible scenarios to be considered:

- With no change in resourcing to VFA to increase compliance monitoring and enforcement, the amount of non-compliance under this option is likely to increase, as non-compliance will be harder to detect. This may result in an increase in catch (in the short term) and is likely to contribute to fish resources (particularly of some species in some areas) becoming unsustainable if catch increases continue. This in turn would inevitably lead to either fisheries effectively becoming non-viable due to the reduced availability of fish, or the allowed catch having to be reduced in the future. This is considered an undesirable outcome as it would fail to meet the objectives of the Act.
- To achieve compliance rates similar to those under Option 1, VFA would require a large increase in resources to provide additional officers to monitor fishing areas and observe catch as it occurs. VFA believe the additional resources needed would be around \$6 to \$7 million based on estimated additional officers needed to achieve compliance levels on par with current compliance. This additional cost would need to be recovered from the fishers through higher fees and levies or from an appropriation from government.

Under either scenario, the department considers this option clearly inferior to Option 1. Allowing non-compliance to increase significantly is not a desirable outcome. The additional costs to the VFA of having to increase its monitoring and enforcement activities to ensure licence holders comply with the restrictions on fishing activities would likely far exceed the Option 1 compliance costs (estimated at an annualised cost of \$1.2 million per year across the commercial sector—see Appendix E).

7.3 Option 3 (unrestricted licences)

Option 3 would allow recreational and commercial fishing and aquaculture production to be unrestricted.

Under this option, the level of take by recreational fishers could potentially increase in the short term with no restrictions on the amount of equipment able to be used, bag or size limits, or closed seasons. However, past surveys of recreational fishers²⁸ suggests that the current restrictions are not a significant factor in whether people choose to fish recreationally and how often, although being unrestricted might change where and when they choose to do so. Overall, under this option the number of recreational fishers, and the time spent fishing, is not expected to be materially different from Option 1 or 2. However, there may be an adverse impact on sustainability on some species if fish size and catch limits, and closed seasons/waters, do not exist.

While the removal of restrictions may create an incentive for increased recreational fishing, in practice it is also likely that unrestricted commercial fishing may lead to increased competition for certain fishing areas, as well as reducing the number of fish available to be caught by recreational fishers, thereby discouraging recreational fishing. The net effect on recreational fishing is therefore unknown.

Increased commercial fishing would result in greater economic benefits in the short term. However, in the medium to longer term, this is likely to lead to overfishing, reducing the economic and ecological value of the fisheries in the future.

²⁸ EY (2015), Economic Study of Recreational Fishing in Victoria, and VFA (2018) Participation Study of recreational fishers.

In the long run, unrestricted fishing would be detrimental to both the commercial and recreational sectors by reducing the fish available. The department believes this would not be consistent with the objectives of the Act to promote sustainable fishing opportunities.

7.4 Summary of options

Table 12 below summarises the impacts of the three options considered above.

The criteria used to assess each option includes an overview of the expected impact on each sector, the cost of each option to the VFA and an assessment against the broad objectives of the Act (i.e., ensuring that fishing is ecologically sustainable and that the resource is shared between sectors). The assessment also considers the effectiveness of each option in addressing animal welfare and ethical fishing practices and in ensuring that by-catch is minimised.

Table 12: Summary of impacts of options

Criteria	Option 1	Option 2	Option 3
Recreational fishing activity	Direct expenditure on recreational fishing over \$2.3 billion per annum, with a <i>net</i> benefit ²⁹ of recreational fishing to the fishers of over \$600 per annum.	The same as Option 1, although increased risk of non-compliance of commercial fishers may have a negative impact on recreational fishing.	Similar or slightly more than Option 1—potential for some risks to sustainability of some species, and also some activity to be discouraged due to increased competition with commercial fishing.
Compliance burden on recreational fishers	Very minor, not quantified—see section 7.1 (page 62).	Nil	Nil
Commercial fishing and aquaculture activity	Value of production of over \$100 million per annum.	About the same as Option 1 if enforcement effort of VFA is increased. If enforcement activities are not increased, there would be an increase in commercial take in the short term, but negatively affect sustainability of catch in the longer term.	Potential for significant increase in commercial catch in the short term; reduced catch in the longer term as fisheries become unsustainable.
Compliance burden on commercial sector	Quantified costs of \$11.9 million over ten years (NPV). There are also some other costs not quantified (see Appendix E).	Potentially the same as Option 1. The compliance burden would be based on the licence holder's response to each obligation and their willingness to comply.	Nil

²⁹ The net benefit was measured by the 'consumer surplus'—the additional value that is derived from undertaking fishing activities, over and above what has been paid for that fishing activity (including equipment, bait, travel, etc). It is the difference between what participants would be willing to pay to undertake an activity and what they actually pay.

Criteria	Option 1	Option 2	Option 3
Aboriginal Victorians	All persons who identify as an Aboriginal Victorian or a Torres Strait Islander exempt from the need to obtain a recreational fishing licence.	All persons who identify as an Aboriginal Victorian or a Torres Strait Islander exempt from the need to obtain a recreational fishing licence.	All persons who identify as an Aboriginal Victorian or a Torres Strait Islander exempt from the need to obtain a recreational fishing licence.
Cost to VFA of enforcing Regulations	Around \$13 million per year.	The estimated cost of enforcement would be around \$20 million. Also, significant additional resources would be needed to monitor the sustainability of fisheries, inform restocking and change catch limits.	Nil for enforcement.
Ecological sustainability	Effectively manages sustainability.	Potentially the same as Option 1. Sustainability could be compromised as compliance is based on each licence holder's response to the obligations and their willingness to comply.	Fish resources would become unsustainable.
Sharing of the resource	Controls over harvest and levels of take better understood.	Controls over harvest but limited understanding of take levels which could result in biases towards individual sectors.	No understanding of take levels or controls over harvest which could result in biases towards individual sectors.
By-catch	By-catch minimised through catch methodologies and controls.	Potentially the same as Option 1. Unnecessary by-catch could increase as compliance is based on each licence holder's response to the obligations and their willingness to comply.	Could result in high levels of by-catch.
Animal welfare and ethical take	Helps protect animal welfare and ensure ethical fishing practices.	Potentially the same as Option 1. Animal welfare and ethical fishing practices could be compromised as compliance is based on each licence holder's response to the obligations and their willingness to comply.	Could compromise animal welfare and result in unethical practices.

Option 1 is the preferred option, as it achieves the objectives of the Act while providing the more efficient approach to compliance.

Options 1 and 2 are preferred to Option 3, as Option 3 clearly leads to unsustainable fishing outcomes, increased conflict between recreational and commercial fishers, high levels of by-catch, and adverse outcomes in terms of animal welfare. Option 3 does not achieve the objectives of the Act.

Both Options 1 and 2 have the ability to provide better outcomes in terms of future sustainability, and avoid other negative impacts of unrestricted fishing. However:

- Option 2 has a much higher cost of ensuring compliance with the controls on fishing and aquaculture. The additional resource effort for VFA is around \$7 million per year (which would need to be recovered from industry through fees and levies), compared to Option 1 which imposes compliance costs on licence holders of around \$1.5 million a year.
- Despite the additional resource requirement for VFA enforcement under Option 2, there would likely be higher rates of non-compliance under Option 2 compared to Option 1.

8 Implementation, enforcement and evaluation

8.1 Implementation

The proposed Regulations largely continue the current Regulations, and as such the existing mechanisms will continue to operate to give effect to the Regulations.

Changes to the Regulations will be communicated to stakeholders via:

- VFA writing to key stakeholders including representative bodies
- VFA writing to licence holders where major changes are imposed
- updating the Recreational Fishing Guide and information on the VFA website
- use of social media including Facebook and Instagram.

The VFA will run a series of port visits with SIV to assist fishers to understand and adapt to the new catch reporting and VMS requirements. This is an important part of any change management process and staff from across the VFA business (e.g., management, licensing, compliance) will undertake this task.

The VFA already have internal processes set up that will be utilised to ensure enforcement officers are aware of and trained for the new regulatory provisions applying to recreational, commercial and aquaculture sectors and Aboriginal persons. This includes training workshops, updating general enforcement guidelines, issue of enforcement directives, and regular meetings for staff.

Particular transitional arrangements will be put in place in relation to the change to electronic reporting and the use of VMS.

- While the proposed Regulations are framed on the basis that commercial abalone, rock lobster and giant crab, fisheries will be required to report catch and effort electronically, the VFA will exempt licence holders from this licence condition to continue to allow use of paper-based reporting until the commencement of the new licensing year in 2020 for the relevant fishery.³⁰ This will assist with the transition to the new arrangements. The scallop dive and sea urchin fisheries will be required to report electronically from 1 February 2020, as per their current requirements.
- The new commercial banded morwong, pipi and octopus fisheries are also framed on the basis that they will be required to report electronically, however the VFA will exempt licence holders and apply use of paper-based reporting until the eCatch system has been fully developed for those fisheries.
- While the Regulations will be framed on the basis that abalone, banded morwong (new fishery), Corner Inlet, giant crab, inshore trawl, octopus (new fishery), rock lobster, sea urchin and Western Port/Port Philip Bay licence classes will be required to transition to and operate VMS from 1 February 2020, the VFA will work with industry to introduce VMS and assist with the transition to this technology. The delay between the implementation of the new Regulations and the formal requirement for VMS in these fisheries will be effected via an exemption to the Regulations.
- The scallop dive and scallop (ocean) fisheries will continue to operate VMS from 1 February 2020 as per current requirements.

³⁰ Abalone eastern zone fishery will transition to electronic reporting a year later (on 1 April 2021) following discussions with industry.

There will also be minor transitional arrangements as a result of new licence classes for octopus and pipi to allow continued take of these species for relevant fishers until the quota for the new licences has been allocated (expected by 1 April and 1 July 2020, respectively). The current permits for banded morwong will remain in place until quota has been allocated for that new fishery.

8.2 Enforcement

The proposed Regulations set out numerous penalties for offences. These are generally the same as the current Regulations. The Department of Justice and Community Safety has undertaken a review of the proposed offences. DoT will work with DJCS to develop infringement penalties for relevant offences in accordance with the government's guidelines on infringements to coincide with the introduction of the new regulations on 1 February 2020. This includes new offences that were noted in Chapters 3 and 4.

The VFA have existing enforcement staff and processes established to enforce the existing regulations and these arrangements will continue to apply under the proposed regulations. The new offences are of an administrative nature and will not require any new enforcement resources.

8.3 Evaluation

The proposed Regulations will sunset in 2029. This will be the next time the Regulations are due for a formal evaluation, done via preparation of a future RIS. However, some elements may be reviewed before that time if necessary as a consequence of:

- remaking the fees, royalties and levies regulations by 2027
- any changes that may be made to the Act before that time
- regulatory changes required to deliver government initiatives.

In addition, VFA will also specifically monitor the operation and effectiveness of the proposed Regulations, and in particular the proposed changes to the Regulations, via:

- ongoing monitoring of catch data, to identify any potential impacts of the Regulations on industry activity
- ongoing review of offence data to inform VFA of the operation of specific regulations and the planning of regulatory enforcement activities
- ongoing engagement with industry stakeholders via the Recreational Fishing Round Table, the Aquatic Strategic Action Group, TACC setting workshops, stock status assessments and management plan discussions.

These sources of evidence will inform an ongoing assessment of whether the regulatory framework (which is not limited to only the proposed Regulations, but also how the Regulations interact with powers under the Act and use of management plans) is meeting the objectives of the Act. Specifically, the department and VFA will use data collection and stakeholder feedback to make regular assessments of whether the following objectives are being achieved:

- enable recreational fishing, commercial fishing and aquaculture to occur in Victoria in an efficient, effective and ecologically sustainable manner
- protect and conserve fisheries resources, habitats and ecosystems including the maintenance of aquatic ecological processes and genetic diversity
- promote sustainable commercial fishing and viable aquaculture industries and quality recreational fishing opportunities for the benefit of present and future generations
- facilitate access to fisheries resources for commercial, recreational, traditional and non-consumptive uses.

Appendix A: Number of Recreational Fishing Licences

Table 13: Recreational Fishing Licence numbers by type, 2005-06 to 2018-19

YEAR	Licence Type				
	3 Year	1 Year	28 day	3 Day	48 hrs/2 days*
2005-2006	3,746	172,663	15,588	N/A	44,420
2006-2007	23,174	147,194	16,648	N/A	49,712
2007-2008	16,991	139,542	18,064	N/A	53,764
2008-2009	17,524	134,562	22,860	N/A	64,693
2009-2010	29,081	139,325	26,055	N/A	76,407
2010-2011	27,909	136,121	27,557	N/A	79,192
2011-2012	31,031	145,599	31,506	N/A	95,163
2012-2013	36,627	143,422	29,929	N/A	105,205
2013-2014	33,656	127,619	29,168	N/A	104,683
2014-2015	34,175	122,770	28,796	N/A	102,332
2015-2016	45,599	115,140	29,508	429	106,357
2016-2017	34,295	118,673	15,745	101,606	1,092
2017-2018	34,297	111,770	12,419	100,304	77
2018-2019	36,725	114,255	10,719	100,859	22

*48 hour/2 day licenses were superseded by 3 day license on 1 July 2016.

Licence sales are not an accurate reflection of fishing participation due to the number of current exemptions that apply and those not required to hold a licence. Also exempt are traditional owner groups fishing within an area subject to a natural resource agreement relevant to that traditional owner group.

A VFA Participation Study in 2018 found that 176,889 Victorians aged between 5 and 12 fished for the first time over the previous 3 years.

Appendix B: Number of commercial licences

Table 14: Number of commercial fishing and aquaculture licences

Licence Type	Licence Description	No.
A	Abalone (Western Zone) Fishery	14
A	Abalone (Central Zone) Fishery	34
A	Abalone (Eastern Zone) Fishery	23
BF	Bait (General) Fishery	12
CI	Corner Inlet Fishery	18
EA	Eel Fishery	18
GB	Gippsland Lakes Fishery (Bait)	9
GC	Giant Crab Fishery Licence	11
GL	Gippsland Lakes Fishery	10
GM	Gippsland Lakes (Mussel Dive) Fishery	2
LB	Lake Tyers Fishery (Bait)	1
MB	Mallacoota Lower Lake Fishery (Bait)	1
NB	Snowy River Fishery (Bait)	2
OF	Ocean Fishery	157
OP	Purse Seine (Ocean) Fishery	1
OS	Scallop (Ocean) Fishery	89
OW	Wrasse (Ocean) Fishery	22
PM	Port Phillip Bay (Mussel Bait) Fishery	0
PS	Purse Seine (PPB)	0
SDP	Scallop Dive (Port Phillip Bay) Fishery	1
SUD	Sea Urchin Fishery	9
PW	Westernport/Port Phillip Bay Fishery	9
RL	Rock Lobster Fishery Western Zone Licence	71
RL	Rock Lobster Fishery Eastern Zone Licence	36
SB	Sydenham Inlet Fishery (Bait)	2
TR	Trawl (Inshore) Fishery	54
API	Aquaculture (Private Land – Indoor intensive)	8
APT	Aquaculture (Private Land – Tourism) Licence	6
CLA	Aquaculture (Crown Land – Abalone) Licence	5
CLB	Aquaculture (Crown Land – Bivalve Shellfish) Licence	8
CLE	Aquaculture (Crown Land – Eels) Licence	11
CLO	Aquaculture (Crown Land – Other) Licence	2
CLOS	Aquaculture (Crown Land – Offshore) Licence	6
OSA	Aquaculture (On-shore Abalone) Licence	4
PLE	Aquaculture (Private Land – Eels) Licence	1
PLM	Aquaculture (Private Land – Marine) Licence	2
PLN	Aquaculture (Private Land – Warm Water Finfish) Licence	16
PLO	Aquaculture (Private Land – Ornamentals) Licence	7
PLS	Aquaculture (Private Land – Salmonids) Licence	14
PLX	Aquaculture (Private Land – Other) Licence	1
PLY	Aquaculture (Private Land – Yabbies) Licence	12
AR	Abalone Fish Receivers	12
SR	Scallop Fish Receivers	0
	TOTAL	721

Appendix C: Summary of proposed changes to the Regulations

Indigenous fishing

1. Exempt persons who identify as Aboriginal or Torres Strait Islander from the need to obtain an RFL.

Proposed changes to the existing regulations relating to recreational fishing

Seasonal or area restrictions

1. The salmonid closed season for Mt Emu Creek and the Moyne river will be removed to allow fishing year-round.
2. Offences relating to fishing in or on Ryan's creek between Loombah Weir and McCallsay Weir (near Tatong) will be removed (access to these areas may be restricted by the relevant land manager).

Catch and size limits

3. The catch limit for bass yabby (shrimp) (currently 100 bass yabby) will be replaced with a volume limit of 0.5 litres.
4. The bag limit for goatfish (fish of the family Mullidae) will be increased from 5 to 20.
5. The bag limit for sea urchins will be increased from 20 to 40.
6. The bag limit of Macquarie perch in the Yarra River will be reduced to zero to help this species recover in this location.
7. The bag limit for river blackfish (including two-spined blackfish) will be reduced from 5 to 2 and the size limit will be increased from 23cm to 30cm to help this species recover to more sustainable population levels.
8. The list of family fishing lakes will be updated (these lakes have no minimum size limit restrictions or closed season for trout and salmon to improve the fishing experience for families). New lakes will be added (e.g., Ferntree Gully Quarry) and some removed to reflect the current areas where stocking occurs.
9. The term 'southern rock cod' will be defined as species of the genera *Lotella* and *Pseudophycis*. This means species such as red cod, bearded rock cod, large tooth beardie and slender beardie will have a minimum size limit of 23 cm and a combined catch limit of 20 fish per day.
10. Tarwhine will be included in bream size and catch limits to remove any confusion regarding fish identification.
11. Clarify the bag limit for swordfish and marlin as a combined one fish per day.

Permitted equipment

12. Allow the use of barbed flying gaffs (with a hook) for game fishing.
13. Allow hand-held spears with more than 2 prongs and barbs to be used (where hand-held spears are currently permitted).

Animal welfare matters

14. The tethering of fish will be prohibited. This means fish will no longer be permitted to be placed on stringers (keeper nets will continue to be permitted).
15. The recently introduced prohibition on the use of opera house nets for yabbing in private waters (currently effected by a Fisheries Notice), will be transferred into regulation.

Aboriginal or Torres Strait Islander persons

16. Persons who identify as Aboriginal or Torres Strait Islander will no longer need to obtain a Recreational Fishing Licence (where an existing exemption does not apply and subject to all other restrictions that apply to recreational fishers).

Other

17. The requirement to carry an abalone measuring instrument when recreationally taking abalone will be removed (existing size limits will continue to apply).
18. The amount of berley used in Port Phillip Bay, Western Port Bay, Gippsland Lakes, any inlet of the sea or within 1 nautical mile of the coastline or any island will be limited to 10 litres (outside these areas, there is no restriction on the amount of berley that can be used).
19. A new offence will be created for defacing or interfering with a fisheries-related sign (e.g., a sign erected by the VFA to detail catch limits).

Administrative

20. A number of rules currently set out in Fisheries Notices will be transferred into the proposed regulations, including those relevant the management of Murray cod, Murray spiny freshwater crayfish, rays, golden perch, trout cod and trout. The rules specified in each notice (e.g., bag limits and size limit) will not change.

Proposed changes to the existing regulations relating to commercial fishing

Regulatory reduction initiatives

1. The requirement for commercial licence holders to physically carry their licence will be removed. This is no longer necessary as enforcement officers can now remotely access licencing information.
2. The required minimum height of boat registration markings will be reduced from 23cm to 20cm to reflect the size of lettering that is readily available commercially (8 inches or 20.32cm).
3. Abalone Transfer Certificates and 'small sales returns' documentation will be removed and replaced with standardised fish receipt and product movement records.
4. Abalone receivers will no longer be required to produce stock records on request by the VFA and the use of 'trader identification numbers' will be removed.
5. The restriction to limit daily take to one dive zone and the annual report requirement for the Scallop Dive (Port Phillip Bay) Fishery Access Licence class will be removed.
6. The requirement for licence holders to report theft of documents to police will be removed (note: licence holders must still notify the VFA).
7. Allow a combination of longlines (with a total of no more than 200 hooks) to be used under the Ocean Fishery Access Licence.
8. Allow Wrasse (Ocean) Fishery Access licences to be held by a corporation.

Removal of redundant access licence classes

9. The sole Purse Seine (Port Phillip Bay) Fishery Access Licence class was surrendered as part of the election commitment to remove commercial netting from Port Phillip Bay. This licence class is no longer required and will be revoked.
10. The Port Phillip Bay (Mussel Bait) Fishery Access Licence class will be revoked as the licence holder is no longer operational.
11. Revoke the Fish Receivers' (Scallop) Licence class. This will remove the requirement for scallop (ocean) fishers to directly sell, process and transport scallops to these licence holders (although they are currently exempt from this process) and will provide a consistent approach to the sale and processing of product for both the scallop ocean and scallop dive fisheries.

Create new access licence classes and fisheries

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| 12. Create a new Pipi Fishery Access Licence class and fishery (to be quota managed) in accordance with the declared <i>Victorian Pipi Fishery Management Plan</i> . Authorisation to take pipi will be removed from all other relevant access licence classes to create a stand-alone licence for this species. |
| 13. Create a new Octopus Fishery Access Licence class and fishery (to be quota managed). Authorisation to take octopus will be removed from the Ocean Fishery Access Licence Class to create a stand-alone licence for this species. |
| 14. Create a new Banded Morwong Fishery Access Licence class and fishery (to be quota managed) in line with current permits. The existing authorisation to take up to two banded morwong per day by other licence classes will remain unchanged. |

Expansion of VMS requirements to additional classes of access licence

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| 15. Require commercial abalone, banded morwong, Corner Inlet, giant crab, inshore trawl, octopus, rock lobster, sea urchin, scallop dive, ocean scallop and the Western Port/Port Philip Bay licence classes to have VMS installed and operating on vessels when engaged in commercial fishing operations. Fishers operating VMS will, where relevant, no longer be required to prior report their intention to go fishing or to land fish. |
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Administration of commercial fishery licences

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| 16. Require all licence classes, except Bait (General) and Ocean Fishery Access Licences to have licence operators authorised by the VFA and specified on the licence. All licence operators must pass a fit and proper test and demonstrate a knowledge of the regulations relevant to their fishery. |
| 17. Prescribe grounds for suspending a commercial fishery access licence. The grounds for suspension will be if the person has breached a licence condition, the person has been found guilty of certain offences or they have defaulted on a payment of a fisheries-related fine. |
| 18. Include all fisheries subject to VMS as classes of access licence that must have the vessel specified on the licence. This will help ensure enforcement officers can readily identify commercial vessels in bays and inlets. |

Changes to catch and size limits

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| 19. Increase the combined catch limit for gummy and school shark from 2 to 5 for the ocean fishery, inshore trawl, rock lobster and giant crab licence classes. |
| 20. Increase the commercial minimum size limit for bluethroat wrasse from 28 to 30 centimetres. |
| 21. Reduce the minimum size limit for commercial take of male giant crab from 15 to 14 centimetres. |

Changes to reporting and catch disposal records / fish receipts

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| 22. Require electronic reporting of daily catch and effort data for specified commercial licence classes, including the abalone, rock lobster, giant crab, scallop (dive) and sea urchin fisheries. |
| 23. Require electronic reporting of the number and weight of dead rock lobster in coffs and wet-wells (for deduction from quota if a threshold of 10 rock lobsters is reached). |
| 24. Require a consistent form of fish receipt or fish movement record for all types of fish, at any point in the market chain. |

Licence conditions

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| 25. Clarify the prohibition on the transfer of fish at sea. This is currently a licence condition for most commercial fisheries. This change will ensure the condition is applied consistently across all commercial licence classes. |
| 26. Clarify the prohibition on the sale of bait for human consumption. This is currently a licence condition for most bait fisheries. This change will ensure this prohibition is explicitly and consistently stated as a condition on all bait licences. |
| 27. Clarify the number of licence operators and crew that may be used under each fishery access licence class. |

New offences

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| 28. A new offence prohibiting commercial fishing boats from displaying false identifying marks will be created (20 penalty units). |
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Revised offence

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| 29. The amount of berley used in Port Phillip Bay, Western Port Bay, Gippsland Lakes, any inlet of the sea or within 1 nautical mile of the coastline or any island will be limited to 10 litres (outside these areas, there is no restriction on the amount of berley that can be used). |
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Administrative changes and consolidation or clarification of existing regulations

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| 30. Consolidate the common reporting requirements and processes for commercial fisheries into a single section to improve readability of the regulations. |
| 31. Simplify the layout of commercial fishing licence conditions so that they are in chronological order (from pre-fishing to weighing and reporting) to improve readability of the regulations. |
| 32. Transfer the provisions of the Commercial Snapper Catch Limit Fisheries Notice into the regulations (e.g., the catch limit and reporting requirements for snapper taken by inshore trawl fishers). |
| 33. The words 'fishing trip' and 'daily limit' are used interchangeably throughout the regulations to set catch limits for several fisheries. To clarify that limits are per day and for consistency purposes, the words 'daily limit' will be used. |
| 34. Remove references to generic groups (e.g., clam, crab) that may be taken under a bait licence and replace with specific species. This will not change bait fishers' current entitlements as the revised list aligns with recent catch history. Harvesting species not on the list will require VFA authorisation. |
| 35. Include additional landing ports in the relevant schedules for the scallop dive, rock lobster and abalone fisheries to expand where fishers can land their catch. |
| 36. Update authorised activities and licence conditions for the Western Port/Port Phillip Bay access licence class to reflect the arrangements arising out of the recent commercial netting buy out in Port Phillip Bay (i.e., explicitly authorise a long-line as permitted equipment and prohibit longline team-fishing operations). |
| 37. Enable the VFA to exempt a licence class from a regulation. The VFA currently has the ability to exempt individual fishers from the requirement to comply with specified regulations. This can be administratively cumbersome where all licence holders in a licence class need to be given an exemption. |
| 38. Standardise the weight of fish accuracy requirements to within 1 kilogram of the actual weight of the fish. |
| 39. Clarify that commercial licence holders cannot fish in aquaculture reserves unless authorised to do so. This is an administrative change only that clarifies that wild catch commercial fishers are not permitted to fish in aquaculture reserves unless authorised to do so. |
| 40. Clarify the definition of a trammel net. This is an administrative change to update this definition. |

Proposed changes to the existing regulations relating to aquaculture

1. The information requirements included in an aquaculture production return have been updated (i.e., the average price obtained for each species sold during the return period will need to be provided and the requirement to provide the name of any relevant aquaculture fisheries reserve named on the licence has been removed).
2. Require a consistent form of fish receipt or fish movement record for all types of fish, at any point in the market chain.

Other changes

1. A new offence for defacing or interfering with fisheries-related signs. This would apply to any person. A person who removes, interferes with or defaces a sign or notice erected or posted for the purposes of the Act or any regulations, Fisheries Notice or order under the Act may be subject to a penalty of 20 penalty units.

Appendix D: Stakeholder suggestions that are not included in the proposed Regulations

The VFA lead preliminary consultation on potential changes to the existing regulations. Over 70 suggestions for regulatory changes were made by VRFish, SIV, GFAV and VFA. However, not all suggestions were included in the proposed regulations as some had already been addressed through other means, were outside the scope of the regulatory review or were not supported by the VFA for various reasons (e.g., were not consistent with an approved management plan for a fishery). Some of the key proposals which were not included in the proposed regulations are detailed in the table below.

Table 15: Stakeholder-suggested changes not included in the proposed Regulations

Fishing stakeholder proposal	Fishing stakeholder view	Reasoning for not progressing
<p>Authorise Wrasse (Ocean) Fishery Access Licence holders to take a limited amount of bycatch under the licence</p>	<p>Wrasse fishers seek the ability to land by-catch, instead of having to return all fish other than Wrasse. The price of wrasse far exceeds the price of other fish so it is believed that fishers would not target other species. However, the ability to land some level of by-catch would provide financial benefits to the fishers, their families and the regional economies in which they reside.</p>	<p>The VFA support this in principle but require further consideration of implications for the Ocean Fishery Access Licence class and the type and level of by-product that could be permitted. Further discussions will be held with industry outside of this regulatory review.</p>
<p>Introduce a recreational Total Allowable Catch (TAC) for Rock Lobster</p>	<p>Commercial fishers are of the view that a lack of a recreational TAC compromises the goals of the Rock Lobster Fisheries Management Plan.</p>	<p>The VFA does not support this change as it is a matter for consideration during the management planning process. Furthermore, TACs are defined in the initial quota order and are outside the scope to this regulatory review.</p>
<p>Changes to classes of recreational fishing licences</p>	<p>The current licensing system involving exemptions does not facilitate management and consultation of fishers. A licensing system should be introduced which facilitates better management of fisheries (including monitoring and consultation).</p> <p>This would provide for the first time an accurate number of participating recreational fishers in Victoria. With advances in digital licences, having a free or concessional priced licence for under 18s, and over 70s would revolutionise communications, research opportunities and planning for the sector. Due to the decline in the overall number of licences issued, there is a need to examine the usefulness of some licence categories given current demand trends.</p>	<p>A review of recreational fishing licences is currently being undertaken in consultation with key recreational stakeholders. This review is not expected to be completed prior to the commencement of the new regulations. Any regulatory changes arising from this review will be the subject of a future regulatory change package (subject to Ministerial approval).</p>

Fishing stakeholder proposal	Fishing stakeholder view	Reasoning for not progressing
Licensing and managing charter fishing	<p>Charter fishing is currently unregulated and unmanaged, with concerns for sustainability raised.</p> <p>Amendments were proposed to introduce licensing and catch/ boat limits for the charter industry.</p>	<p>Not supported by the VFA at this point in time as it would create unnecessary red tape. Take data may be collected through the Go Fish Vic app and creel surveys. Not currently a sustainability issue and is not consistent with general deregulation principles.</p>
Reduce the number of rods/ handlines that may be used by land-based person when fishing marine waters from 4 to 2	<p>The number of rods/lines that is permitted for use off land-based infrastructure is causing conflict, safety concerns and reducing the quality of the recreational fishing experience. Better sharing of available space at land-based fishing locations could allow more people to fish.</p>	<p>The VFA does not support this being addressed by regulation at this point in time. Education and awareness are a more appropriate response in line with the Code of Conduct for Recreational Fishing.</p>
Abalone recreational days	<p>Limiting the number of weekend days able to be fished is overly restrictive and it not optimising the recreational sector's access to the resource. A modern regulatory framework that leads to sustainable and active harvest of the abalone resource and adds benefits to accountability and reporting is required.</p>	<p>The VFA does not support this. They have advised this is a matter for consideration during the management planning process.</p>
Remove requirement for a permit for tagging fish	<p>Fishers currently need a permit to allow them to tag or mark fish. GFAV asked for this requirement to be removed (at a minimum for GFAV/GFAA members) on the basis that if anglers are given recognition for tag and release of fish, they will be more inclined to release them.</p>	<p>Not supported by the VFA. Tagging needs to be fit for purpose and not open ended. The VFA is working with VRFish and GFAV to issue a permit for these groups to take a more active role in managing fish tag programs.</p>

Appendix E: Estimating regulatory compliance burden for the proposed Regulations

Table 16: Estimated compliance costs for commercial fisheries

Activity	Number (full year)		Time (minutes)	Other costs (e.g. purchase costs)	Frequency (times per year)	Annual Cost
Reporting and notification requirements						
Complete catch and effort record (daily)	620	licences	3		25	\$46,500
Submit paper-based catch and effort records to VFA (monthly)	421	licences	10		12	\$50,520
Pre-fishing notifications for pipi and eel access licences	27	licences	5		46	\$6,210
Post fishing weighing and reporting	203	licences	5		69	\$70,035
Notification of removal of nets – eel	18	licences	5		57	\$5,130
Maintaining access to mobile phone network – electronic notifications	356	licences		\$150	1	\$53,400
Marking of equipment						
Marking of rock lobster pots, and other traps, crab pots, commercial hoop net or mesh net, cage or coff (must be attached to surface buoy, flag, etc)	7183	pieces of equipment	5		1	\$35,915
Marking of fyke nets in Gippsland Lakes - attach to float or mark	2	licences	5		100	\$1,000
Marking of pots, traps and nets – Gippsland Bait fishers	9	licences	5		540	\$24,300
Marking or fyke nets – eel fishers	18	licences	5		900	\$81,000
Mussel storage bins	12	bins	5		1	\$60
Marking of pots, traps and nets attached to orange spherical surface float - Gippsland Lakes	10	licences	5		500	\$25,000
Marking of recreational hoop nets, open top lift nets and bait traps	90,000	pieces of equipment	5		0.1	\$45,000
Abalone to be placed in bins and sealed with bin tags	71	licences	5		50	\$17,750

<i>Vessel Monitoring System</i>						
Scallop fisheries (dive and active ocean)	14	boats		\$624	1	\$8,736
New VMS requirements—operating costs	185	boats		\$624	1	\$115,440
<i>New VMS—installation</i>	185	boats		\$1,100	1	\$203,500
<i>Boat registrations</i>						
Initial boat registration - submit application	34	boats	30		1	\$1,020
Renewal of registrations	424	boats	10		1	\$4,240
Markings - cost of affixing markings on new boats	34	boats	30	\$100	1	\$4,420
Markings (assumed refresh for existing boats every 5 years)	424	boats	30	\$100	0.2	\$11,024
Transfer of registration - submit application	14	boats	15		1	\$210
<i>Abalone docket</i>						
Part A of abalone docket						
Part B of abalone docket and provide details to VFA						
Affix docket to bins						
Submit docket to VFA						
Maintain internet, printer	71	licences	15		50	\$53,250
Provide stock records to VFA						
Marking of packaging						
Weighing details to VFA						
Submit duplicates of docket to VFA						
<i>Rock Lobster</i>						
Maintain and complete a coff register – rock lobster	107	licences	5		80	\$42,800
Notification of intention to retrieve live rock lobster from coff	107	licences	5		50	\$26,750
Maintain and complete a wet well register – rock lobster	107	licences	5		93	\$49,755

Aquaculture						
Complete and submit an aquaculture production return (6 monthly)	103	licences	30		2	\$6,180
Labelling of fish product from aquaculture premises	103	licences	30		50	\$154,500
Identifying boundaries of licence areas using bouys etc. (Crown Land Aquaculture licences)	41	aquaculture sites	60	\$2,400	0.1	\$10,086
Marking commercial aquaculture equipment (Crown Land Aquaculture licences)	32	licences	60		1	\$1,920
Maintain incoming stock records (aquaculture)	103	licences	60		1	\$6,180
Product movement records						
Production and possession of a Catch Disposal Record	240	licences	5		50	\$60,000
Production and possession of a fish receipt	500	persons	2		200	\$200,000
Production and possession of a fish movement record	500	persons	2		200	\$200,000
Actions in relation to commercial licences						
Notification of intention of no activity for more than one month	300	instances	10		1	\$3,000
Change of name and details	50	instances	10		1	\$500
Transfer of commercial licence	30	transfers	15		1	\$450
Eligibility criteria for issue, renewal or transfer of access licence (ie, demonstrate an understanding the regulations)	920	licensees and operators	60		0.5	\$27,600
Return of lost, damaged or stolen fisheries documents	5	incidents	10		1	\$50
TOTAL COST						\$1,449,931 <i>Plus a once-off cost of \$203,500 for VMS installation</i>

The total cost is the expected yearly cost over the life of the proposed Regulations.

*The value of time has been estimated at \$60 per hour. This is based on feedback from a number of licence holders that it is usually an employee that completed most of the compliance activities, and this cost represents the indicative cost to the business.

Appendix F: Qualitative impact assessment matrix

Table 17: Matrix used to assess the impact of each proposed change

	Qualitative Rating				
Metric	Very Low	Low	Medium	High	Very High
Cost	<\$1,000 per year and/or as a one-off cost	\$1,000 to \$50k per year and/or as a one-off cost	\$50k to \$250k per year and/or as a one-off cost	\$250 to \$500k per year and/or as a one-off cost	>\$500k per year and/or as a one-off cost
Support	<ul style="list-style-type: none"> Strong opposition from all key stakeholder groups Likely to be opposed by the majority of the community 	<ul style="list-style-type: none"> Opposition from majority of key stakeholder groups Support from small number of minor stakeholders Likely to be opposed by most of the community 	<ul style="list-style-type: none"> Mixed support key stakeholder groups Likely to be supported by only sections of the community 	<ul style="list-style-type: none"> High level of support from key stakeholder groups Likely to be supported by the community 	<ul style="list-style-type: none"> High level of support from all stakeholder groups Likely to be strongly supported by the community
Sustainability	<ul style="list-style-type: none"> High level/likelihood that sustainability or environmental risks that can't be mitigated 	<ul style="list-style-type: none"> High level/likelihood of sustainability or environmental risks that risks could be partially mitigated 	<ul style="list-style-type: none"> Moderate level/likelihood of sustainability or environmental risks that could be mitigated 	<ul style="list-style-type: none"> Low level/likelihood of sustainability or environmental risks that can be mitigated 	<ul style="list-style-type: none"> No obvious sustainability or environmental risks
Implementability	<ul style="list-style-type: none"> Implement within 4 years 	<ul style="list-style-type: none"> Implement within 3 years 	<ul style="list-style-type: none"> Implement within 2 years 	<ul style="list-style-type: none"> Implement within 1 year 	<ul style="list-style-type: none"> Implement immediately