

2020 EPBC Act Export Application

Ocean Scallop Fishery

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Introduction

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), all fisheries that export their catch must be assessed against the *Commonwealth Guidelines for the Ecologically Sustainable Management of Fisheries* (DEWR 2007).

The Victorian Scallop (Ocean) Fishery was initially granted export approval under the EPBC Act in 2006 and has been re-assessed regularly since that time. The fishery will be reassessed in late 2020.

The ocean scallop fishery has been subject to reduced fishing effort and catches that have been well below the conservative 135 tonne Total Allowable Commercial Catch (TACC) for the past several fishing seasons while the fishery is recovering.

The Victorian Fisheries Authority (VFA) is submitting this application on behalf of the Victorian ocean scallop industry so that catches can continue to be exported as the fishery recovers and catches increase. The VFA requests that given the conservative TACC, the comparatively low catch levels and the VFA's commitment to not increasing the TACC without demonstrated and documented stock recovery, that this export approval be granted for ten years.

Fishing area

The Victorian Scallop (Ocean) Fishery extends twenty nautical miles out from the Victorian coastline but does not include bays and inlets or marine protected areas (Figure 1).

Large parts of the zone are either not suitable for commercial scallop fishing or have not been historically fished. Most fishers in the Scallop (Ocean) Fishery operate from Lakes Entrance and Port Welshpool.

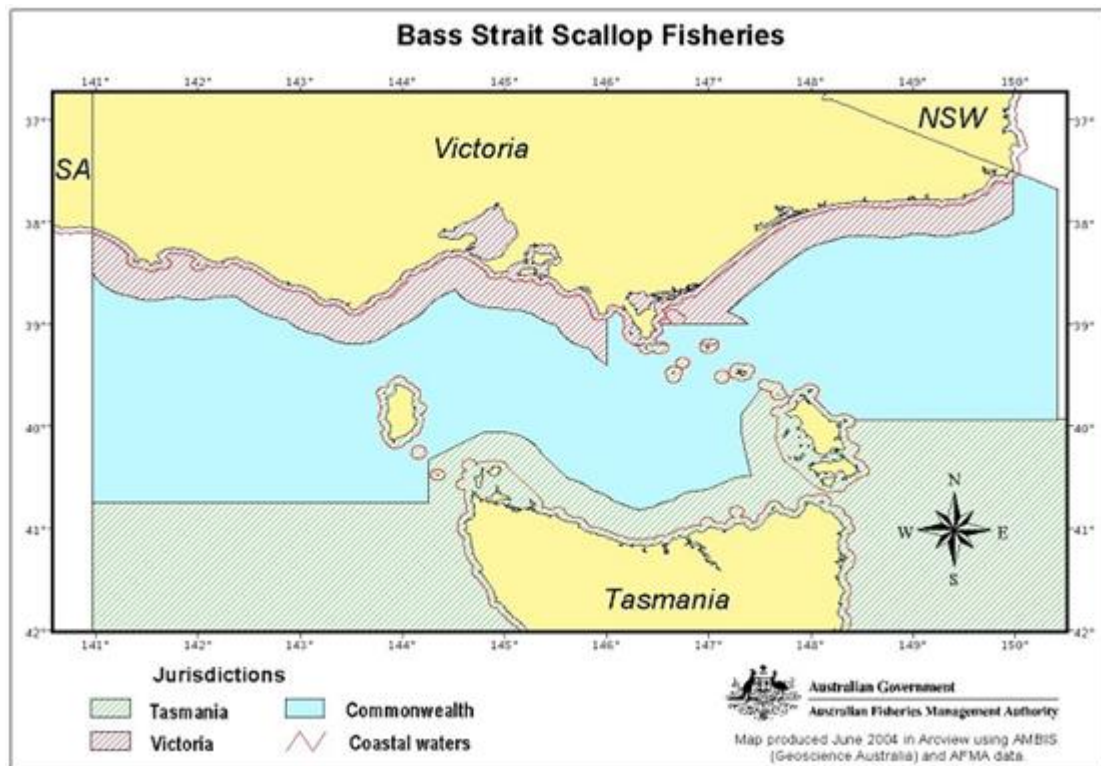


Figure 1. Jurisdictional boundaries for commercial scallop fishing in Bass Strait. Source: AFMA (2004).

Targeted/ permitted/ prohibited species

The Scallop (Ocean) Fishery Access licence allows operators take scallops and a small amount of by-product. The commercial scallop (*Pecten fumatus*) is the predominant species harvested. Doughboy scallops (*Chlamys asperimus*) may also be harvested but catch of this species is generally low and has not been reported since 2010.

Licence holders can also take up to ten kilograms of by-product and up to eight wrasse but are prohibited from harvesting or possessing on board their vessel abalone, bug, giant crab, jellyfish, pipi, rock lobster, sea urchin or

species that are protected under State and Commonwealth legislation including great white sharks and syngnathids.

Governing legislation/ fishing authority

The VFA is tasked with managing Victoria's fisheries resources. The VFA administers the *Fisheries Act 1995* which provides the broad statutory framework that ensures the ecologically sustainable management of Victoria's aquatic resources.

The *Fisheries Regulations 2019*, which were implemented in February 2020, set out the management arrangements for commercial and recreational fishing.

Management arrangements employed in the fishery

The Bass Strait scallop fishery is managed under a suite of cross jurisdictional arrangements between the Commonwealth, Victoria and Tasmania. Under the current arrangements, the VFA manages the fishery in the Victorian fishing zone but regularly engages fishery managers in the other jurisdictions to ensure that management arrangements across jurisdictions are broadly understood. The VFA is a permanent observer on the Commonwealth Scallop Management Advisory Committee (Scallop MAC).

The commercial management arrangements for the Victorian scallop fishery are reviewed regularly in consultation with industry representatives and other fishery experts. Consultation is undertaken in accordance with the provisions of section 3A of the Fisheries Act.

The key management arrangements for the Scallop (Ocean) Fishery are summarised in Table 1. There have been no significant changes to the management arrangements for this fishery since the last assessment.

The Fisheries Regulations now require vessels operating in the fishery to have an approved VMS unit installed but this requirement has been a licence condition for many years.

Table 1. Key characteristics of the Scallop (Ocean) Fishery.

Access to fishery	<ul style="list-style-type: none"> 89 access licences No new licences to be issued
TACC	<ul style="list-style-type: none"> Total allowable commercial catch- 135 tonnes (shell weight) Quota units are transferable for the season
Monitoring	<ul style="list-style-type: none"> Approved vessel monitoring system operating while commercial fishing Regular reporting of catch, effort and by-catch
Authorised fishing equipment	<ul style="list-style-type: none"> Scallop dredge up to 4.5 m wide Internal mesh openings measuring at least 6.8 cm long by 4.4 cm wide
Authorised species	<ul style="list-style-type: none"> Commercial scallop (<i>Pecten fumatus</i>) Doughboy scallop (<i>Chlamys asperrimus</i>) Must not possess more than 10 kg of by-product Up to eight wrasse per day Must not possess any abalone, bug, giant crab, jellyfish, pipi, rock lobster, sea urchin or species protected under State and Commonwealth legislation
Management zone and boundaries	<ul style="list-style-type: none"> Marine waters out to twenty nautical miles Does not include Port Phillip Bay, Western Port, Gippsland Lakes and any inlet of the sea
Other management tools	<ul style="list-style-type: none"> Minimum size 80 mm Scallop must be landed whole No recreationally and commercially harvested scallops at the same premises

The Scallop (Ocean) Fishery has been quota managed since 1998. Input controls (e.g. maximum dredge width, minimum size limit) are also in place to ensure the sustainability of the resource. No new Victorian ocean scallop licences have been issued since 1970 and the current number of licences is capped by the Fisheries Regulations at 89.

Individual transferable quota units were introduced due to sustainability concerns and to enable fleet rationalisation. The TACC is set annually and each licence holder is allocated an equal share at the beginning of each season. Quota units can be transferred amongst licence holders but revert to the original licence at the start of the next fishing season.

Setting the annual TACC follows a statutory process involving consultation with stakeholders, a decision by the Minister responsible for fisheries (delegated to the VFA Chief Executive Officer) and publication in the *Victoria Government Gazette*. The Fisheries Act requires that fishers and other stakeholders, fishery scientists and fishery managers be consulted before decisions on changing the TACC and other management arrangements are made. Information from a range of sources including catch and effort, scientific research, stock assessments and data from other Bass Strait scallop fisheries is considered before changes to the annual TACC are made.

The VFA set the TACC at zero tonnes for the 2010/11, 2011/12 and 2013/14 seasons due to the stock assessment surveys in 2009 and 2012 finding that the fishery was neither commercially nor biologically viable. It increased the TACC to 135 tonnes (shell weight) in 2014/15, or 1.5 tonne per licence, when there were 90 access licences in the fishery to provide fishers with the opportunity to explore the fishery and collect fishery dependent information.

Commercial catch and effort

The VFA's confidentiality policy prohibits the public reporting of annual catches in fisheries where five or less fishers have reported catch. Catches for the calendar years 2010 through to 2019 have been well below the historical levels; zero tonnes were harvested in 2011 and 2012 when there was no allowable catch set and in 2017 and 2018 when there was no fishing effort. Catches in the remaining years during this period did not exceed approximately 29 tonnes and were typically less than seven tonnes although catch increased above this level in 2019.

Fishing effort is dependent on market values, the quality of scallops in the fishery and weather conditions. Although there are 89 commercial licences in the fishery, the number of active vessels has generally been between about twelve and 25 although it has been one to two in recent years with the low exploratory TACC of 1.5 tonnes per licence.

Many Victorian fishers hold licences in other fishing jurisdictions of the Bass Strait scallop fishery (i.e. the Commonwealth, Tasmania). Processors can influence where scallop fishing occurs due to demand for quality scallops.

Managing compliance and compliance risks

Commercial fishers are required under the Fisheries Act to provide details of the amounts of fish they harvest, consign, sell and receive, the persons these fish are received from or provided to and their contact details.

Medium to high compliance risks identified for the quota management system include:

- fishers not recording commercial catch in catch and disposal records;
- fishers under-reporting their catch; and
- collusion with fish receivers and processors to dispose of unreported catch.

These risks are managed by:

- the requirement that scallop fishers and receivers submit logbook returns on a monthly basis;
- inspection and audits by VFA staff of daily catch and effort records;
- direct observations of fishery activities;
- routine inspections;
- targeted operations; and
- vessel monitoring systems.

Catch and effort data is validated by covert and overt observations and intelligence including reports from the public. Operations that address incorrect reporting and illegal-take-for-sale are undertaken in response to identified risks.

Ocean scallop fishers are also required to have approved and functioning vessel monitoring systems on their vessels when they are operating in this fishery.

The VFA has a reporting hotline, 13 FISH (13 3474), on which members of the public can report illegal fishing at any time of the day.

Offenders are subject to education, penalties including fines, prohibitions on fishing, seizure of gear including boats and vehicles and surrender of licences depending on the severity of the offence.

Assessing scallop abundance in the Scallop (Ocean) Fishery

Commercial scallop fishers report the following data on their catch:

- catch (shell weight);
- minutes of dredging;
- percentage of scallops discarded (i.e. less than the 80 mm legal size, dead scallops); and
- the area code where the scallops were harvested.

Stock assessments have been undertaken in 2009, 2012 and 2018.

2009 and 2012 scallop abundance surveys

Since the commercial fishery began in the 1970s, catches have varied greatly from year to year. Prompted by poor catches during the mid-to late-2000s, fishery independent surveys of historically fished scallop beds were undertaken in 2009 (Harrington et al. 2010) and 2012 (Semmens and Jones 2012). These surveys found low scallop densities and negligible recruitment that made the fishery neither commercially nor biologically viable. The TAC for the 2010–11, 2011–12 and 2012–13 fishing seasons was, consequently, set at zero.

The TACC was subsequently increased to 135 tonnes (i.e. 1.5 tonnes per each of the 90 licences) to allow exploratory fishing to determine if there has been any stock recovery.

2018 scallop abundance survey

A further abundance survey covering the historical fishing grounds in eastern Victoria was undertaken in late December 2017 and early January 2018 (Figure 2; Koopman et al. 2018). Results from this survey indicated a continued low level of abundance and recruitment throughout the fishery. Whilst the survey did locate a very small number of beds containing commercially available scallops, they were not at a level or density considered enough to provide ongoing recruitment to the fishery.

The scallop bed containing the highest abundance of adult scallops greater than the legal minimum length of 80 mm located during the survey had an estimated biomass of 386 tonnes. The density of this bed was estimated at 0.51 individuals/m². The Bass Strait Central Zone Commercial Scallop fishery harvest strategy (AFMA 2014), an area containing a minimum abundance estimate of 1,500 tonne adult spawning stock of high density (above 0.2 individuals/m²) is seen as being enough to maintain ongoing recruitment in a scallop fishery.

The above evidence indicates that the biomass of this stock is likely to be depleted, recruitment is impaired and that current fishing mortality is constrained by management to a level that should allow the stock to recover from its recruitment impaired state; measurable improvements are, however, yet to be detected. Environmental factors appear to be preventing stock recovery rather than the effects of fishing and a cautious approach has been implemented to support recovery.

The TACC remains at 135 tonnes (i.e. 1.5 tonnes per licence) with catches and effort remaining low and effort mostly mirroring harvest levels.

Status of Australian Fish Stocks 2018

Key fish stocks are assessed biennially in the national *Status of Australian Fish Stocks*¹ by cross-jurisdictional teams of scientists using a consistent, nationally agreed classification system (SAFS; FRDC 2018). The process is overseen by an advisory group of representatives from the Commonwealth and all jurisdictions and includes an external peer review process managed by the Fisheries Research and Development Corporation.

The evidence considered in the SAFS assessment indicates that

- the biomass of this stock is likely to be depleted and that recruitment is impaired;
- fishing mortality is constrained by management to a level that should allow the stock to recover from its recruitment impaired state but that measurable improvements are yet to be detected;

¹ www.fish.gov.au

- environmental factors have prevented such recovery rather than the effects of fishing; and
- a cautious approach has been implemented to support recovery.

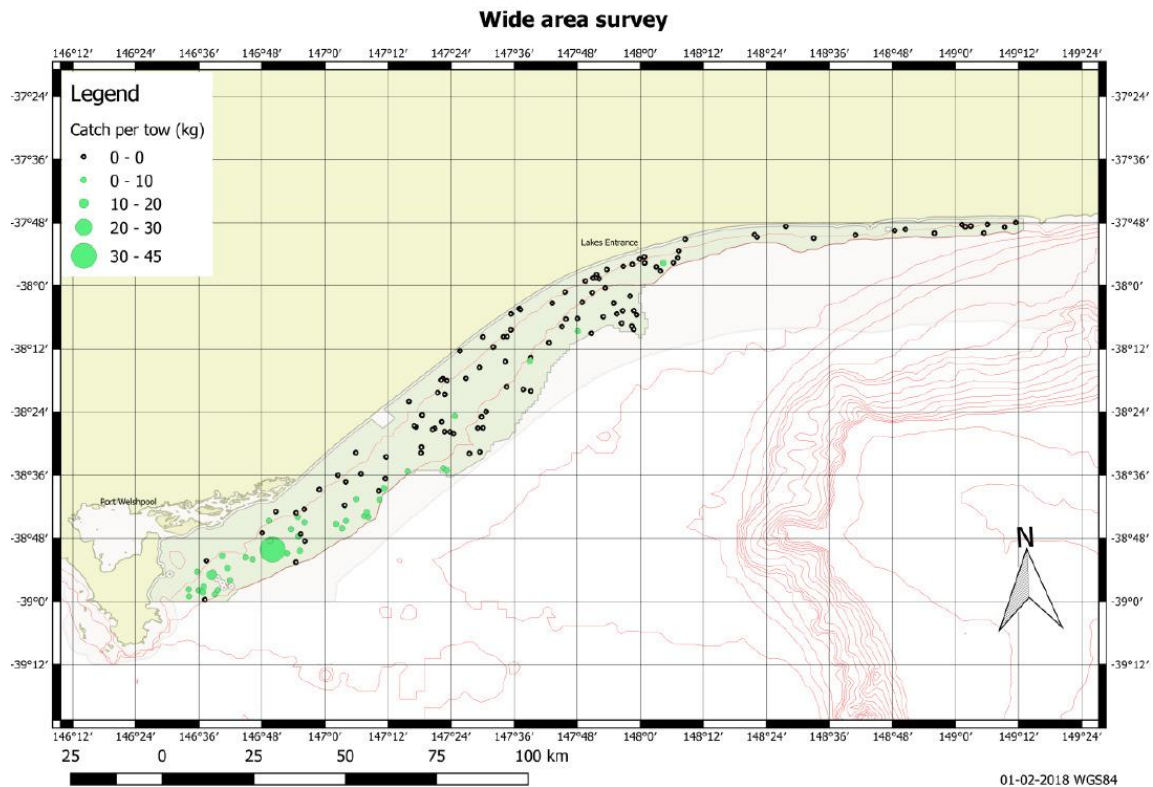


Figure 2. Locations of tows undertaken during the 2018 scallop abundance survey.

Allocation between sectors

Recreational scallop fishing generally takes place in sheltered bays and inlets where commercial fishers do not operate and is low compared to commercial harvest. A resource allocation policy for scallops is therefore not a priority in Victoria.

Consultation

The Fisheries Act requires that the VFA consult with commercial and recreational fishing and other relevant stakeholders before making certain changes to fisheries management arrangements². These include, for example:

- setting TACCs;
- changing legislation and regulations;
- declaring fishery management plans;
- changing licence conditions; and
- making Fisheries Notices.

Interactions with protected species

The Victorian Department of Environment, Land, Water and Planning (DEWLP) has provided an amnesty from prosecution under the *Wildlife Act 1975* and the *Flora and Fauna Guarantee Act 1988* to Victorian commercial

² VFA consultation web page: <https://vfa.vic.gov.au/operational-policy/fisheries-consultation>

fishers who accidentally interact with protected wildlife while lawfully operating under their fishing licence providing that they report the interaction in the approved way³.

The amnesty is subject to the following conditions:

- the fishing activities were undertaken in accordance with the licence conditions;
- the interaction was unintentional;
- immediate steps were taken to return the protected species to its natural environment as quickly as possible and with minimum injury; and
- the licence holder reported the interaction in the approved manner.

Fishers must record all interactions on their daily catch logs and regular summaries are provided to DELWP. This information helps to support ecologically sustainable management of Victoria's fisheries, to identify risks and to inform the VFA whether fishery management changes are required to minimise the impacts on protected species. Reporting by fishers also assists in maintaining and or improving the public perception of the fishery.

Victorian commercial fishers have been provided with the *Protected Species Identification Guide for Victoria's Commercial Fishers Guide* to assist them in reporting interactions (DEDJTR 2015).

No interaction with protected species has been recorded in the Victorian Scallop (Ocean) fishery during the 2010 to 2019 calendar years.

Impacts of the fishery on the ecosystem in which it operates

Scallop dredging is a non-selective fishing method and can impact on the substrate and associated biota in fishing areas. Impacts are ameliorated by the maximum allowable dredge with that most dredging is undertaken on coarse sandy bottoms which recover relatively quickly. Marine parks and sanctuaries are closed to scallop fishing. Vessel monitoring systems on board commercial scallop vessels allows the VFA to monitor spatial management arrangements and assists with compliance activities.

Ecological impacts are reduced because dredging is limited by commercial fishers returning to the same small regions where there are known to be high abundances of scallops. Catch is also sorted on board commercial fishing vessels and by-catch is returned to the water as soon as practicable.

Most by-catch is comprised of rays, hermit crabs, spider crabs, starfish and sponges that are widely distributed across southern Australia and unlikely to be threatened by scallop fishing (Coleman 2004). No by-catch or by-product was reported during the 2010 to 2019 calendar years.

External impacts on the fishery

Little is known about the correlations between environmental conditions and scallop growth, condition, reproduction and settlement. Environmental conditions such as wind, tide and currents may impact on recruitment in the fishery. It is known that scallops experience natural variability in abundance and mortality and are naturally vulnerable to predation from a range of marine species.

Exotic species are likely to impact scallop populations through predation and increased competition for food and habitat.

³ *Wildlife (Commercial Fisheries – Interaction with Protected Wildlife) Order No. 1/2018. Victoria Government Gazette G13. 29 March 2018*

Consolidated detailed information outlining progress in implementing conditions

Condition	Status	Comment
Operation of the Victorian Scallop (Ocean) Fishery will be carried out in accordance with the <i>Fisheries Act 1995</i> (Vic) and Victorian <i>Fisheries Regulations 2009</i> (Vic).	Ongoing	The Victorian Fisheries Authority manages Victoria's fisheries resources in accordance with the <i>Fisheries Act 1995</i> and the <i>Fisheries Regulations 2019</i> which superseded the <i>Fisheries Regulations 2009</i> in February 2020.
The Victorian Fisheries Authority to provide the Department with information on the fishery's management arrangements including any intended material changes to management arrangements that may affect the assessment against which EPBC Act decisions are made.	Complete	The VFA has not made any material changes to the management arrangements for the Victorian Scallop (Ocean) Fishery that may affect the assessment against which EPBC Act decisions are made.
The Victorian Fisheries Authority to produce and present reports to the Department annually as per Appendix B of the 'Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition'.	Information provided through this application.	Annual reports for the Victorian Scallop (Ocean) Fishery have not been prepared. The VFA has therefore prepared this application using the standard level of information.
In consultation with the Department of the Environment and Energy, the Victorian Fisheries Authority to develop and seek to implement a harvest strategy for the Victorian Scallop (Ocean) Fishery within the duration of this declaration as a wildlife trade operation. Evidence towards implementing this condition must be provided as part of the annual report to the Department, in accordance with Condition 3 of this approval.	Deferred	The VFA has determined that a harvest strategy for the Scallop (Ocean) Fishery is not required due to the low and conservative TACC and the current low effort and catches in the fishery.
Increases to the baseline 135 t total allowable commercial catch (TACC) for the Victorian Scallop (Ocean) Fishery will be underpinned by the harvest strategy described in Condition 4. The Victorian Fisheries Authority to update the Department on any changes to the TACC and its rationale for doing so.	Deferred	The VFA commits to not increasing the current 135 tonne TACC without a harvest strategy being developed in consultation with industry and supported by a comprehensive abundance survey that identifies commercially viable scallop beds.

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Condition	Status	Comment
The Victorian Fisheries Authority to continue to work with relevant jurisdictions to actively pursue consistent and/or complementary management arrangements for the commercial scallop stock off southeast Australia, and to provide the Department with a summary of the activities.	Ongoing	<p>The VFA is committed to pursuing complementary management arrangements with the jurisdictions that manage the Bass Strait scallop fishery. Victorian fisheries managers have met with State and Commonwealth jurisdictions in relation to sharing research, compliance strategies and fisheries management including harvest strategies.</p> <p>It is important to note, however, that Victorian fishers represent a minor component of the entire Bass Strait scallop harvest.</p>

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