Tasmanian Scallop Fishery

Proposed Amendments to the Scallop Fishery Management Plan

Information Paper - November 2019
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Introduction

The Department of Primary Industries and Parks, Water and Environment (DPIPWE) is seeking your comments on the new Scallop Fishery Management plan - *Fisheries (Scallop) Rules 2019*.

This document outlines proposed changes to the current Scallop Fishery Management Plan that will be contained in the new Management Plan. The proposals in this paper have been developed in consultation with the Scallop Fishery Advisory Committee (ScFAC), the Scallop Fishermen’s Association of Tasmania (SFAT) and the Recreational Fishery Advisory Committee (RecFAC).

The process for making a new management plan is prescribed under section 44 of the *Living Marine Resources Management Act 1995* (the Act) and includes a 60 day public exhibition of the draft management plan before final changes are accepted and approved by the Minister.

While there are some new rules and modifications to others, the majority of the current rules will be rolled over with minimum change. A table detailing the rule numbers in the current scallop rules and corresponding rule numbers in the draft *Fisheries (Scallop) Rules 2019* can be found in Appendix 1.

The proposed changes to the Scallop Fishery Management Plan primarily relate to the Commercial Scallop Fishery and centre around simplifying the scallop quota management system, overrun provisions, scallop survey periods, matters concerning definition, possession, deploying, and specifications of a scallop dredge and size limits. A number of other minor commercial amendments are also being progressed. Changes that relate to the recreational scallop fishery include defining the D’Entrecasteaux Channel as discrete management area and introducing a minimum age to hold a scallop licence.

Unless specifically stated, the proposals in this document for the recreational fishery also apply to Aborigine engaged an Aboriginal activity.


**HAVE YOUR SAY**

The Tasmanian Government is committed to providing opportunities for community involvement in the development of Government policy and we are seeking your input on the draft rule amendments detailed in this Information Paper.

**HOW TO MAKE A SUBMISSION**

You are invited to provide written responses from Wednesday 20 November 2019 until midnight Friday 31 January 2020.


Responses should be submitted directly online or by using the printed form. Short email responses and those submitted by mail will also be accepted.

To request a copy of the Information Paper or a printed copy of the response form please email [fisheries.review@dpipwe.tas.gov.au](mailto:fisheries.review@dpipwe.tas.gov.au) or phone (03) 6165 3045.
Submissions (not submitted directly online) can be forwarded to:

Email  fisheries.review@dpipwe.tas.gov.au

Mail  DPIPWE – Scallop Plan
      GPO Box 44
      HOBART  TAS  7001

Hand Deliver  DPIPWE, Wild Fisheries Management Branch
              Level 1, 1 Franklin Wharf
              HOBART  TAS  7000

Responses will not be accepted if received after midnight on Friday 31 January 2020.

ACCESSIBILITY OF SUBMISSIONS

The Government recognises that not all individuals or groups are equally placed to access and understand information. We are therefore committed to ensuring Government information is accessible and easily understood by people with diverse communication needs.

Where possible, if not using the online response form or printed form, please consider typing your submission in plain English and providing it in a format such as Microsoft Word or equivalent.

The Government cannot however take responsibility for the accessibility of documents provided by third parties.

ACKNOWLEDGEMENT OF SUBMISSIONS

Respondents using the online response form will receive an automatic acknowledgement of receipt and a copy of the response form. Respondents using mail, or email submissions may make enquiries to check the response has been received, however, the Department of Primary Industries, Parks, Water and Environment (DPIPWE) will not automatically send an acknowledgement.

HOW RESPONSES TO THE AMENDMENTS WILL BE USED

Written submissions will be considered by DPIPWE, and the Scallop Fisheries Advisory Committee (ScFAC) and Recreational Fishery Advisory Committee.

DPIPWE will then prepare a report for the Minister on the submissions, including the Fishery Advisory Committees recommendations/comments and DPIPWE’s final recommendations for amendments to the management plan.

This report will be publicly available following the Minister’s consideration. Responses to this paper will be summarised for inclusion in the report to the Minister.

Other than indicated below, submissions will be treated as public information and will be published on our website at www.fishing.tas.gov.au/scallop-review at the same time as the report to the Minister is published.

No personal information other than an individual’s name or the organisation making a submission will be published.

IMPORTANT INFORMATION TO NOTE

Your name (or the name of the organisation) will be published unless you request otherwise.
In the absence of a clear indication that a submission (or parts of the submission) is intended to be treated as confidential, the Department will treat the submission as public.

If you would like your submission treated as confidential, whether in whole or in part, please indicate this in writing at the time of making your submission clearly identifying the parts of your submission you want to remain confidential and the reasons why. In this case, your submission will not be published to the extent of that request.

Copyright in submissions remains with the author(s), not with the Tasmanian Government.

The Department will not publish, in whole or in part, submissions containing defamatory or offensive material. If your submission includes information that could enable the identification of other individuals then either all or parts of the submission will not be published.

THE RIGHT TO INFORMATION ACT 2009 AND CONFIDENTIALITY

Information provided to the Government may be provided to an applicant under the provisions of the Right to Information Act 2009 (RTI). If you have indicated that you wish all or part of your submission to be treated as confidential, your statement detailing the reasons may be taken into account in determining whether or not to release the information in the event of an RTI application for assessed disclosure. You may also be contacted to provide any further comment.

For further information in relation to the HAVE YOUR SAY section of this paper please email fisheries.review@dpipwe.tas.gov.au or phone (03) 6165 3045.
Proposed Amendments to the Management Plan

While there are some new rules, many from the Fisheries (Scallop) Rules 2010 will be rolled over. The rationale for the changes are outlined below.

I. Area management for the D’Entrecasteaux Channel

**PROPOSED CHANGE**

1. To establish the D’Entrecasteaux Channel as a separate management area; allowing for tailored seasons, catch limits and size limits.

2. Allow the capacity to apply this to other parts of the fishery if needed.

The recreational scallop fishery in the D’Entrecasteaux Channel has been closed by public notice since 2011, and has to an extent been treated as a separate management area. These proposals formalise those arrangements. In the future, policy outlining opening criteria guidelines will be developed.

Until its closure a decade ago, the D’Entrecasteaux Channel was the focus of the recreational scallop fishery with high participation levels due to its close proximity to Hobart.

As stock levels declined in the late 2000s, a range of management tools were introduced in an attempt to slow down the fishery and extend it across a number of years.

Season reductions and increased minimum legal sizes specific to the Channel attempted to slow the decline allowing several additional years of fishing. Unfortunately no significant recruitment has occurred since that period. Subsequent surveys by IMAS continue to indicate low stock levels.

Although there is no indication of a substantial scallop recovery in the D’Entrecasteaux Channel at this point in time, it is appropriate that supportive legislation be put in place, periodic monitoring continue and opening criteria guidelines be developed. Although the current rules allow some flexibility, it is proposed to take a more formal approach, by incorporating the current Channel closure in the Rules and managing the DEC as a separate area. When signs of stock recovery occur, the guidelines for opening criteria and seasonal management arrangements can be applied.
The current rules have the capacity to reduce bag limits statewide but not for a specific area. The change proposed includes a provision to set alternative (i.e increase and decrease) bag and possession limits.

This proposed change has several benefits:

- It will allow the application of more conservative i.e decreased bag limits, which may increase the likelihood of allowing an area to be open for fishing, rather than having to remain closed;
- The default bag limit of 50 scallops for the statewide fishery will be unaffected if more conservative area specific bag limits are required in specific areas of the fishery such as the D’Entrecasteaux Channel;
- In moving to a more flexible approach for scallop management, the proposed change provides capacity to increase the catch limit from the default bag limit of 50 scallops, should future research and policy support such an increase.

In summary, the proposed change will provide greater flexibility to manage specific areas of the fishery appropriately, thus increasing potential opportunities for scallop fishing than under the current rules.

The D’Entrecasteaux Channel will next be considered for opening when an IMAS survey indicates there is sufficient abundance of scallops for a sustainable fishery.

Refer to the following rules in the proposed new legislation:

13. Opening and closure of D’Entrecasteaux Channel
15. Maximum amount of scallops for non-commercial scallop fishery
2. Total allowable catch for commercial scallop fishery

**PROPOSED CHANGE**

To adopt a more conventional total allowable catch (TAC) setting process for the commercial scallop fishery by utilising the provisions as outlined in Section 94 of the *Living Marine Resources Management Act 1995*.

Replace rule 20 in the *Fisheries (Scallop) Rules 2010* (20. Maximum amount of scallops for commercial scallop fishery) with a new rule (23. Total allowable catch for commercial scallop fishery) in the new *Fisheries (Scallop) Rules 2019*.

Currently in the *Fisheries (Scallop) Rules 2010* the maximum amount of scallops that may be taken for each scallop quota unit is determined as a percentage of the maximum unit value - 400kg. There are 10,366 scallop units in the fishery. Under this process the Total Allowable Catch (TAC) is calculated by multiplying the percentage by the number of units.

It is proposed in the new management plan that the TAC will be set under section 94 of the *Living Marine Resources Management Act 1995* and the portion of the TAC will be allocated to the holders of a fishing licence (scallop) according to the number of scallop quota units held on that licence. The unit value will be calculated by dividing the TAC by the total number of units in the fishery.

This is a more conventional process for setting the TAC and calculating the quota unit value in a quota managed fishery. It will simplify the scallop quota management system (QMS) and allow it to be incorporated into the Department’s FILMS database. It will also be simpler for holders and supervisors of a fishing license (scallop) to keep track of the quantity of scallop quota they have available to catch if / when the TAC is increased during a season.

The initial TAC is set based on limited information from pre-season surveys. As more information about scallop abundance is gained through commercial fishing, there is capacity to increase the TAC during the season. This makes the scallop fishery different from other Tasmanian quota fisheries. The proposed new rule and process for setting the scallop fishery TAC will help to facilitate this.

Refer to the following new rule in the proposed new legislation:

23. Total allowable catch for commercial scallop fishery
3. Overrun provisions for the commercial fishery

**PROPOSED CHANGE**

To allow a catch overrun to be resolved by paying 1.5 times the beach price for the excess amount of scallops.

To remove the capacity for an overrun to resolved by deducting the excess amount of scallops from quota the next season.

Currently rule 21 of the *Fisheries (Scallop) Rules 2010* provides two options to deal with catch that is in excess of quota held on a scallop entitlement. The options available are to deduct the excess catch within the current quota year or next quota year if there is insufficient quota available.

Should a season not be declared for the next year (as has occurred for the past few years) there is no opportunity to address the overrun with quota from the next quota year and the overrun is held in limbo until a season is declared.

Other fisheries such as rock lobster and abalone have the option to resolving overrun by paying 1.5 times the beach price for the overrun to the Government. This includes the option of a payment that allows overruns to be resolved within the current season.

It is proposed to replace the current option of addressing an overrun by using quota from the next quota year with an option to pay for any quota overrun at the rate of 1.5 times the beach price.

Holders of a fishing licence (scallop) or supervisors will still retain the option of resolving an overrun in the current season by deducting the excess catch in accordance with Schedule 3 of the new rules.

The overrun provisions apply to a maximum of 15,000kg.

Refer to the following rule in the proposed new legislation:

26. Overrun provisions
4. Exploratory survey period for the commercial fishery

**PROPOSED CHANGE**

**To determine an exploratory survey period via notice which will contain conditions specified in the notice.**

For the past six years state wide scallop surveys have taken place from 1 April through to when the scallop season opens. This has occurred via an approval under rule 24 of the *Fisheries (Scallop) Rules 2010* issued to each participating scallop fisher.

The annual statewide survey has developed a standardised structure which has become an integral part of the scallop fishery, providing an opportunity for scallop fishers to look for and map scallop beds that might be suitable for a commercial fishing.

It is proposed to formalise the statewide exploratory scallop survey period in the new scallop rules. The statewide exploratory scallop survey period will be opened via a notice detailing the conditions that the holder of fishing licence (scallop) needs to abide by to undertake an exploratory survey. Participation will require the scallop licence to be activated. The conditions contained in the notice will include: open and closed dates for the survey period, scallop survey areas with catch caps that will close when the catch cap for that area is reached and any information to be collected.

The statewide survey period will be treated separately for the purpose of tracking catch, with any catch taken in the survey period being deducted from the scallop survey area catch caps. This catch will not be deducted from the scallop quota held on the scallop licence.

Information from the exploratory survey period will be used to identify potential beds for fishing in the current season or future seasons. Prior to the opening of a scallop area for commercial harvest a more targeted survey will be undertaken to obtain an index of scallop abundance, which will be the primary tool used to set the initial TAC. Targeted surveys will take place under the supervision of an IMAS and or DPIPWE observer.

Refer to the following rule in the proposed new legislation:

*Rule 27. Exploratory survey period*
5. Minimum and maximum holdings for the commercial fishery

**PROPOSED CHANGE**

To increase the maximum number of units held on a fishing licence scallop from 1,200 to 2,400.

Ability for the Secretary to authorise the holder of a fishing licence (scallop) to hold more than 2,400 units on a seasonal basis.

Currently in the *Fisheries (Scallop) Rules 2010* no more than 1,200 units can be held on a fishing licence (scallop) and the holder of a fishing licence (scallop) cannot receive payment or benefit from more than 2,400 units in total.

The current limit of 1,200 units that can be held on a licence creates a need for a scallop fisher to change licences during a season to allow all units that may be held to be caught, up to a maximum of 2,400 units. This creates delays for the fisher as well as licence transfer costs. Allowing the entire 2,400 units to be held on the one fishing licence will eliminate the need to change fishing vessel from one licence to another partway through the season.

In a season where there are four or less vessels participating, the maximum unit holding of 2400 units is a barrier which can prevent the entire TAC from being caught. To overcome this the holder of a fishing licence (scallop) can request authorisation from the Secretary to hold more than 2,400 units for a season to allow the opportunity for the TAC to be taken in full. This is only likely to occur in situations where the number of boats participating in a season is not able to catch the full TAC. Such situations may arise if the TAC has been set a low level and it is not viable for all scallop vessels to participate.

Refer to the following rule in the proposed new legislation:

*Rule 36. Minimum and maximum holdings*
## 6. Matters concerning commercial dredges

### PROPOSED CHANGE

1. **Remove the tipper or cradle from the definition of a scallop dredge**

2. **That the holder of a fishing licence (scallop) be able to apply for an endorsement to carry a scallop dredge during a closed season.**

3. **Allow the holder of a Commonwealth scallop entitlement to deploy a scallop dredge in the immediate proximity of a port for the purpose of maintenance.**

4. **To match dredge dimensions used in the Commonwealth fishery, allow modifications of maximum scallop dredge size from 4.5m to 5m.**

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1. Currently the definition of a scallop dredge includes the tipper or cradle used to support and tilt the dredge when a dredge is carried on a vessel. The tipper is large, heavy and cumbersome to remove from a scallop vessel, often requiring a crane to assist. Allowing a dredge tipper or cradle to remain on the vessel during a scallop closed season will reduce the expense associated with removing a scallop dredge and is not anticipated to be an increased compliance risk in the fishery.

Refer to the following rule in the proposed new legislation:

**Rule 37. Definition of scallop dredge**

2. Permits are often issued to the holder or supervisor of a fishing licence (scallop) to carry a scallop dredge on their vessel during a closed season, particularly if they are likely to undertake an opportunistic survey whilst they participate in other fisheries. The removal of a dredge often requires the use of a crane incurring some expense. For activities that consistently require a permit it is reasonable to consider if the activity should be included in the rules if there are no compliance implications.

Refer to the following rule in the proposed new legislation:

**Rule 39. Possessing scallop dredges**

3. Currently the scallop rules allow the holder of a fishing licence (scallop) to deploy a scallop dredge while in the immediate proximity of a port for the purpose of maintenance. This does not extend to the holder of a Commonwealth scallop entitlement. This rule change will now allow the holder of a Commonwealth scallop entitlement to deploy a scallop dredge for the purpose maintenance in the immediate proximity of a port.

Refer to the following rule in the proposed new legislation:

**Rule 40. Scallop dredging prohibited in certain areas.**
4. The scallop rules currently specify that a scallop dredge is to be less than 4.5m wide, which is smaller than dredges used in the Commonwealth Bass Strait Central Zone Scallop Fishery (BSCZSF) are typically 5m. This will increase efficiency for scallop fishers who fish in both jurisdictions, allowing them to use the same dredge.

This rule change will not significantly increase the impacts of scallop dredging on the marine environment as there are far fewer vessels operating in the modern commercial fishery (typically around 12, historically there has been as many as 200 vessels fishing) additionally the fishery is confined to areas of known scallop beds through the paddock fishing strategy employed in the Tasmanian scallop fishery.

Refer to the following rule in the proposed new legislation:

Rule 43. Specifications for scallop dredges
7. **Minimum age and possession of scallops by a child in the recreational fishery**

**PROPOSED CHANGE**

1. Restrict the age for issuing a fishing licence (recreational scallop) to 10 years and older.

2. Deem any scallops in the possession of a child (less than 10 years) to be possessed by the supervising adult.

The current scallop management plan does not have a minimum age for taking scallops. However in other recreational fisheries there is a minimum age provision to hold a licence.

- the recreational rock lobster fishery (licence and deemed possession);
- using gillnets and set lines (scalefish).

Fishing rules are relatively complex, bringing into question the age at which a child is culpable in relation to the rules. The *Tasmanian Criminal Code Section 18* states that a child needs to be above the age of 10 to be culpable for their actions indicating that the minimum age for holding licences should be at least 10 years.

This new provision will reduce the risk of adults taking out licences for minors to increase the catch limits for themselves. Similarly, provisions which deem scallops possessed by a child to be in the possession of a supervising adult removes the ability to shift responsibility to children.

It should be noted that the *Living Marine Resources Management Act 1995* states that Aboriginal people, when engaged in an Aboriginal activity are not required to hold any fishing licences. All persons however, including Aboriginal people, must abide by take and possession limits, size limits, any closed seasons or areas and other legislation. Permits may also be issued for Aboriginal cultural and ceremonial activities, which do not fit with in management plan.

Refer to the following rule in the proposed new legislation:

**Rule 17. Persons under 10 years not eligible to hold fishing licence (recreational scallop)**

**Rule 67. Presumption as to possession of scallop held by child.**
8. Minimum size of scallops in the commercial fishery

**PROPOSED CHANGE**

To reduce the minimum size limit for commercial scallops taken by a commercial fisher from 90mm to 85mm.

Note: There are no proposals to change the size limit for the recreational fishery. See explanation under heading below.

The minimum size limit for commercial scallops in the Tasmanian commercial fishery is currently 90mm. However, the Secretary may by public notice, determine a minimum size limit for a part of the fishery. This provision has been used in the North West part of the fishery in recent years, where the minimum size limit has been set to 85mm when a fishery has been opened in that area.

The minimum size limit for commercial scallops in the adjacent Commonwealth Bass Strait Central Zone Scallop Fishery (BSCZSF) is 85mm. Reducing the size limit in the Tasmanian fishery will bring the two adjacent scallop jurisdictions into line. An IMAS study has demonstrated a fecundity difference of only 13% between 85mm and 90mm shells and will not affect sustainability.

Bringing the minimum size limit of the two zones into line will assist with compliance and policing particularly when both fisheries are open to commercial harvesting at the same time.

The management plan will retain the ability to determine a different size limit via notice, allowing the setting of a larger size limit for areas where scallops are faster growing and have not met the criteria for two years of spawning before commercial harvesting. In areas where scallop abundance has been depleted and more conservative management is warranted to rebuild stocks a larger size limit will be considered.

**Size limits in the recreational fishery**

There is little overlap between the areas fished by recreational fishers and the commercial scallop fishery. The commercial fishery is prohibited in waters less than 20m deep, as well as in Shark Refuge Areas (with the exception of East Coast Waters) and specified scallop dredge prohibited areas.

The size limit set in the rules for recreational commercial scallops (and queen scallops) will remain at 100mm with the flexibility to change those limits by public notice. The higher size limit in the recreational scallop fishery allows the season to open every year without the need for surveys. Higher recreational size limits also increases meat yield from scallops found in inshore sheltered bays.

Refer to the following rule in the proposed new legislation:

*Schedule 4, Part 1, 1. Minimum size specified*
9. Other administrative matters

PROPOSED CHANGE

1. Replace the term “public notice” with “notice”.
2. To remove reference to fishing periods for the commercial fishery.
3. To remove the rule relating to restrictions on leasing, subleasing or lending commercial fishing licences from the new management plan.
4. A scallop quota docket must be sent to the Department within 48 of unloading.
5. To remove rules relating to unloading in Victoria for the commercial fishery from the rules along with ports listed in schedule 1 (Lakes Entrance, Port Welshpool, Queenscliff).

1. For the Scallop Fishery, public notices are used for a range of determinations including closed and open seasons, and establishing the Total Allowable Catch. Recent changes to the Living Marine Resources Management Act 1995 (the Act) provide some flexibility regarding the notification of a determination published in a notice (see section 40 (2)), allowing for a notice to be published on a website of the Government accessible by the public. This avoids the need for the publishing of a public notice in the gazette and papers along with associated cost and time delay.

2. The Fisheries (Scallop) Rules 2010 makes a number of references to fishing periods. Fishing periods were established to control the quantity of scallops landed over the portion of a season. They have not been used as a management tool in the Tasmanian scallop fishery for over 15 years and are not likely to be used in the future. This proposed change is to remove a redundant provision from the management plan.

3. The holder of a fishing licence (scallop) can apply under the Act for an approval to allow another person to use (act as a supervisor) the licence if at least 50 scallop units are held on that licence. Whilst it appears the rule establishes the minimum number of units (50) on a licence before a supervisor can be added, rule 33 (5) performs the same function establishing that a fishing licence (scallop) with less than 50 units held on it be deactivated. This rule change is being proposed to remove duplication within the legislation.

4. Currently a completed scallop docket must be received by the Department within 48 hours after unloading. Owing to slower postal times, the time to receive a docket can be greater than 48 hours. It is proposed to now require that a quota docket be sent to the Department within 48hrs of unloading.

Refer to the following rule in the proposed new legislation:

Rule 54. Completed scallop quota dockets

5. The scallop rules in Schedule 1 lists ports of landing, where scallops may be unloaded. These include ports in Victoria. Currently the scallop rules only allow unloading in Victoria unless endorsed to do
so. It has been Department policy for some time not to allow unloading of Tasmanian quota species in a port outside of Tasmania, due to the Department not having any capacity to monitor unloading interstate creating a significant compliance risk. As such rules relating to unloading in Victoria in the scallop rules should be removed.

Refer to the following rule in the proposed new legislation:

Rule 63. Unloading at port of landing
Rule 64. Transfer or sale of scallops to unlicensed

Schedule 1- Ports
## Appendix 1 — Table detailing rule number changes

The following table details the current rule and corresponding draft rule. The draft rule with a * indicates that changes have been made to the wording of the current rule in the new rules.

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**Schedule 1** PORTS

**Schedule 2** SCALLOP DREDGING PROHIBITED AREAS

**Schedule 3** Scallop Recreational Areas

**Schedule 4** OVERRUN

**Schedule 5** SCALLOP MEASUREMENTS

**Schedule 6** INFRINGEMENT NOTICE OFFENCES AND PENALTIES