



Scallop Management Plan Draft Amendments

PUBLIC CONSULTATION PAPER

DECEMBER 2024

Wild Fisheries Management Branch
Department of Natural Resources and Environment Tasmania

In recognition of the deep history and culture of this island, we acknowledge the palawa people as the traditional and original owners and ongoing custodians of land and sea country of lutrawita/Tasmania and pay respects to their elders past and present.



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Introduction

The purpose of this document is to outline proposed amendments to the *Fisheries (Scallop) Rules 2020* (the Rules), also known as the Tasmanian Scallop Fishery Management Plan (the Management Plan). Proposed rule changes are contained in the draft *Fisheries (Scallop) Amendment Rules 2024* (the draft Amendment Rules).

Under the *Living Marine Resources Management Act 1995* (the Act), a minimum of 30 days is required to publicly consult on changes to rules prescribed in fisheries. The process to amend a management plan is outlined in section 53 of the Act.

During this period of public consultation, we seek your feedback on proposed changes to the Tasmanian scallop fishery as contained in the draft Amendment Rules. We value all feedback, which will be carefully considered as we finalise proposals for inclusion in the Management Plan.

It is important to note that the content provided in this document is a non-legal explanation of the proposed changes. For a more technical understanding, we encourage you to read this document in conjunction with the draft Amendment Rules which can be viewed at www.fishing.tas.gov.au/scallop-consultation along with the current Rules which can be viewed at Tasmanian Legislation Online.

We thank you for considering the proposed changes during this important consultation process and look forward to your feedback as we work together to enhance the sustainable management of the Tasmanian Scallop Fishery.

The main changes relate to:

- Enabling the benefit of recreational scallop fishing to be more widely shared amongst fishers and those peripherally involved in a trip who do not directly fish, and
- Providing for the potential future development of a commercial scallop dive fishery.

Main rule changes

Recreational scallop catch sharing	Allow the sharing of scallops amongst those who directly take scallops, and allow an additional bag limit of scallops for recreational scallop licensees who do not directly participate in the take of scallops.
Boat limit for the recreational scallop fishery	Introduce a boat limit of five times the bag limit (250 scallops).
Activation of scallop quota units to commercially dive for Scallops	To reduce the number of scallops to activate a fishing licence (scallop) for the purpose of commercial diving for scallops from 50 scallop quota units to 10.
Take and possession of scallops by commercial divers	Commercial divers taking scallop won't be able to use the 15% leeway for the take and possession of scallops under the minimum size limit.



How to have your say

This Consultation Paper outlines changes found in the *Fisheries (Scallop) Amendment Rules 2024* (the draft Amendment Rules) and is available to view at www.fishing.tas.gov.au/scallop-consultation.

You are invited to provide feedback on these proposed changes from Friday 20 December 2024 to 11:59 pm on Friday, 7 February 2025.

How to provide your feedback:

Email: Send your written submission to fisheries.review@nre.tas.gov.au

Post: Scallop Fishery Rules Review
Wild Fisheries Management Branch
Department of Natural Resources and Environment Tasmania
GPO Box 44
HOBART TAS 7001

Information about submissions

All submissions, including the names of individual respondents, will be treated as public information, and will be made available on the Fishing Tasmania website.

The following information will not be published:

- private addresses and contact details (including mobile phone numbers)
- defamatory or offensive material
- submissions which breach any laws
- submissions that do not substantively comment on issues relevant to the consultation.

A submission may be publicly withheld when it is not in the public interest to release it, for example to protect personal and other sensitive information (including that of a commercial nature). A request can be made for all or part of a submission (including the name of the submitting person or organisation) to be publicly withheld. Reasons to withhold must accompany a request.

The *Right to Information Act 2009* and confidentiality

By law, 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 confidential, the statement that details your reasons will be considered in determining whether to release the information in the event of an RTI application for assessed disclosure.



Proposed rule changes

1 Recreational Scallop Catch Sharing

Background

In recent years, the introduction of catch sharing among recreational scallop licence holders has frequently been suggested by various stakeholders, particularly recreational scallop fishers. The suggestion is often framed around diver safety, such as a need for someone to look after the boat and maintain a lookout while divers are in the water. Other reasons to progress recreational catch sharing relate to increasing the social value of scallop diving by recognising other participants through take provisions. These include former recreational scallop divers who are no longer able to dive (e.g. for health reasons).

In the lead up to the 2021 Tasmanian election, a commitment was made to progress catch sharing for the recreational scallop fishery. This reflected an action prescribed in the *Tasmanian Recreational Sea Fishing Strategy 2021-2030* to “enable licensed recreational scallop fishers to share their catch when fishing as a group on the same boat”. Since then, the Department of Natural Resources and Environment Tasmania (NRE Tas) has progressed the action through discussions with Tasmania Police and the Tasmanian Association for Recreational Fishers (TARFish).

The proposal

Two or more holders of a fishing licence (recreational scallop), or an Aboriginal person engaged in an Aboriginal activity on a boat, may take more than the bag limit of scallops to:

- share amongst themselves to make up their bag limit, where a diver has not been able to take their full bag limit; and/or
- provide a bag limit of scallops for one recreational scallop licence holder who has not participated in the take of scallops.

However, it is maintained that no holders of a recreational scallop licence, whether personally taking scallops or not, will be able to possess more than the bag limit in any one day.

Implications of change

If implemented, recreational scallop catch sharing would enhance the social value of the fishery by allowing non-fishing divers, who may assist in the overall activity, to legally obtain a bag limit of scallops. The proposed change would also allow lower catches by inexperienced or unsuccessful divers to be assisted by a more successful diver on the same boat.

There may also be positive safety implications. These include having a ‘safety person’ on the boat, removing the need for an unconfident diver or temporary unfit diver to enter the



water to obtain a bag of scallops, and decreasing the pressure on less confident divers to reach their bag limit before finishing their dive.

Relevant rule: Rule 15A (1)

2 Boat Limit for the Recreational Scallop Fishery

Background

Boat limits apply for several recreational fishing species including, rock lobster, blue warehou, striped trumpeter, bastard trumpeter, and jackass morwong. For these site-attached species, boat limits reduce the potential for localised depletions, particularly from larger fishing parties. As scallops have very limited movement once they settle, a scallop boat limit would also limit the scale by which fishers could deplete an area, particularly by larger parties of divers on one boat. A boat limit could also potentially play a role in prolonging the period of productive scallop diving across the limited range of inshore scallop beds.

Tasmania Police (Marine Division) has stated that boat limits are essential to apply to the non-commercial scallop fishery when catch sharing is introduced. Having a boat limit allows for compliance activity as the excess scallops (for catch sharing) would be difficult to attribute to an individual.

The proposal

Introduce a boat limit for the recreational scallop fishery of the bag limit (currently 50 scallops) multiplied by the number of licenced scallop fishers up to a maximum of five times the bag limit (250 scallops).

Implications of change

The proposal would reduce the scope for localised scallop depletions and enable the Marine Police to undertake effective compliance activities associated with catch sharing.

Relevant rule: Rule 15A (3)

3 Presumption of Take or Possession in the Recreational Scallop Fishery

Background

Attributing recreational catches to the person or persons responsible for their take is a fundamental requirement for the Marine Police to be able to enforce bag, boat and possession limits. While this is generally easy to establish, the introduction of catch sharing among fishers also introduces complexities in establishing responsibility for catches.

A similar situation was considered recently with the introduction of catch sharing among recreational rock lobster pot fishers. To address this, a new rule was introduced for situations where nobody claims to have taken rock lobsters when questioned. The rule presumes that the lobsters were taken by a person in the general vicinity of the rock lobster/s in question, who has the means to have taken it.



The proposal

Introducing a rule that presumes that a scallop has been taken by a person, and be in the possession of that person, if it is in their general vicinity and the person has the means to have taken the scallop.

Implication of Change

The proposal will enable the Marine Police to undertake effective compliance activities associated with recreational scallop catch sharing.

Relevant rule: Rule 66

4 Activation of Scallop Quota Units to Commercially Dive for Scallops

Background

The current scallop fishery management plan is centred on the use of a scallop dredge to harvest scallops commercially and is not currently well equipped to consider the specific considerations of a commercial dive fishery. The proposed amendment aims to reduce the number of scallop quota units that are required to be held on a fishing licence (scallop) to commercially dive for scallops to facilitate the potential future development of a commercial dive fishery for scallops.

Rule 62 of the *Fisheries (Scallop Rules) 2020* (the Rules) allows up to three divers who hold a fishing licence (commercial dive) to dive for scallops from a fishing vessel. Rule 36 (5) specifies that a fishing licence (scallop) with fewer than 50 scallop quota units held is to be deactivated (cannot be used for fishing).

For a commercial diver to participate in the scallop fishery, 50 scallop quota units equates to 19.4 tonnes of scallop quota for the 2024 quota year. This is a significant quantity of scallop quota units to hold where the typical quantity of scallops landed from a dive trip is likely to be in the hundreds of kilograms per trip, compared to the scallop dredge fishery which typically lands between 10 and 20 tonnes of scallops per trip. As such, given the relatively small scale of diving operations, it is not practical for a scallop diver to acquire 50 scallop units to activate a fishing licence (scallop) with the intention of taking scallops by diving.

NRE Tas has had requests from holders of a fishing licence (commercial dive) to take scallops commercially by diving. No scallops have been taken commercially by diving since the introduction of the *Living Marine Resources Management Act 1995* (the Act).

NRE Tas intends to allow the take of scallops by commercial divers in areas open to the take of scallops by dredge, that is in waters deeper than 20 metres and outside scallop dredge prohibited areas as outlined in Schedule 2 of the rules.

While commercial divers would like to take scallops in waters shallower than 20 metres, this is not supported by NRE Tas until a comprehensive survey is undertaken identifying where scallops could be taken commercially, along with any areas that would be closed to commercial diving for scallops due to their importance to the recreational scallop fishery,



to create a spawning biomass closure to maintain adequate biomass for spawning¹, or not appropriate for other reasons. It is anticipated that this would take place through a project investigating the viability and management of a commercial dive scallop fishery in Tasmanian coastal waters.

The proposal

Amend the existing rule so that a fishing licence scallop maybe be activated if it has 10 or more scallop quota units held on it and the scallops are only taken by diving.

Implication of Change

This rule amendment will allow the holder of a fishing licence (commercial dive) to activate a fishing licence (scallop) with 10 or more scallop quota units, provided the holder of the licence only takes scallops by diving. This will assist the potential development of a commercial dive fishery for scallops by making it easier for commercial divers to source enough quota to dive for scallops in areas currently open to commercial fishing for scallops.

Existing restrictions on the number of commercial divers who can dive for scallops from a single vessel will continue to apply - up to three holders of a fishing licence (commercial dive) can dive from a fishing vessel specified on a fishing certificate that also has listed on it a fishing licence (scallop).

Relevant rule: Rule 36 (6) (d)

5 Take and Possession of Scallops by Commercial Divers

Background

The current Scallop Fishery Management Plan is centred on the use of a scallop dredge to harvest scallops commercially and is currently not well equipped to consider the specific considerations of a commercial dive fishery. The proposed amendments will require that all scallops taken and possessed by a commercial diver meet the legal minimum size limit.

Rule 9 (b) and 10 (b) of the Rules provides for the holder of a fishing licence (scallop) to take and possess scallops smaller than the minimum size provided that those scallops don't constitute more than 15% of the total amount of scallops that have been taken or possessed.

These rules acknowledge that while commercially harvesting scallops with a dredge, several thousand scallops may be hauled up in the dredge and landed at a time, and it is not practical for the holder of a fishing licence (scallop) to measure every scallop that comes aboard the vessel before being transferred into the hold.

¹ The creation of 'spawning biomass closures', areas of suitably high scallop biomass to support spawning that are closed to fishing, is part of the management of the commercial scallop fishery. Spawning biomass closures help ensure that scallop beds can reproduce, and the stock can be maintained, without being negatively impacted by fishing activity. It is proposed that any area opened solely for commercial diving for scallops would also require a spawning biomass closure to be established, consistent with the commercial dredge fishery.



Prior to opening an area to commercial scallop harvest a comprehensive survey is undertaken to determine scallop density, biomass and size structure. No area is considered for opening if the discard rate (scallops smaller than the legal minimum size limit) of scallops is greater than 20%. In practice the discard rate is rarely above 5%, with only 0.4% of scallops under the size limit in the 2024 open area. Therefore an area open to commercial scallop dredging is not likely to encounter any significant quantities of undersize scallop while fishing in the area covered by a survey.

With commercial diving being a more selective fishing method, the diver has the opportunity to measure every scallop before being placed in the catch bag. As such, it is proposed in the Amendment Rules that the 15% tolerance of undersize scallops that are taken or possessed to only apply to scallops taken by a scallop dredge. All scallops landed by commercial scallop divers would need to be above the minimum size limit.

The proposal

Amend the rules to specify that the 15% allowance for undersize scallops will only apply to those scallops taken by a scallop dredge.

Implication of Change

The holder of a fishing licence (commercial dive) who harvests scallops will need to ensure that each scallop taken and placed in catch bag is greater than the legal minimum size limit and ensure that they are not in possession of any undersize scallops once they are landed in the boat or unloaded at the point of landing.

Relevant rules: Rule 9(b) and Rule 10(b)

6 Possession of a Commercial Scallop Dredge for Maintaining a Navigable Channel

Background

From time to time the deployment of a scallop dredge has been used to maintain navigation channels at the entrance to Georges Bay, Denison Canal and in the Tamar River. The dredge is deployed and towed back and forth across an area that needs deepening with the tide taking suspended sand and silt away. No scallops or other marine life that maybe caught in the dredge can be retained.

Rule 40 (3) of the Rules provides a defence provision for the use of a scallop dredge in closed areas for the purposes of promoting a navigable channel in accordance with a written authorisation provided by Marine and Safety Tasmania (MAST).

However, to possess a scallop dredge in State waters the person undertaking the work for MAST must also hold a fishing licence (scallop). This has not always been the case, and in the past the person undertaking the work required a permit or exemption under the Act.

An additional defence provisions in rule 39 - Possessing scallop dredges - is required to allow the possession of a dredge for the purposes of rule 40(3).



The proposal

To allow a person who does not hold a fishing licence (scallop) with a written authorisation provided by MAST to possess a scallop dredge on State waters for the purposes of maintaining a navigable channel.

Implication of Change

This rule change will allow a person to possess a scallop dredge in State waters without holding a fishing licence (scallop) with an authorisation from MAST. This will simplify the logistical requirements for dredging activity to maintain navigational channels which is beneficial for the State.

Relevant rule: rule 39

7 Preparation of Rules for Digital Transition

Background

The holders of a fishing licence (scallop) who are commercially fishing for scallops are required to complete a number of paper-based forms where they record catch and effort information, unloading and quota details, along with other information. The parts of the scallop quota docket and catch record that a fisher must fill out are specified in the Rules.

The *Living Marine Miscellaneous Amendments (Digital Processes) Act 2021* (Digital Processes Act) introduced the power for the Secretary to approve an electronic record system for the purpose of completing, submitting, supplying and keeping records and documents, accounts and other information that is required under the Act and subordinate legislation.

In preparation for the transition of paper-based to electronic records in the commercial scallop fishery, it is proposed to amend the Rules requiring that instructions be followed as provided with the relevant record.

This will future proof the rules and allow fishers to complete new types of records as required by the Department in the future, without requiring a rule change each time the record-keeping requirements change.

The proposal

The holder of a fishing licence (scallop) will be required to complete the scallop catch and scallop quota docket record in accordance with instructions, which may change from the current instructions in the paper-based scallop quota docket and catch record book once the scallop fishery goes through the digital transition process.

Relevant rules: Rule 54 and Rule 58



8 Devolution of Decisions from the Minister to the Secretary

Background

The Digital Processes Act amended many licensing provisions of the Act to devolve responsibilities for certain licensing decisions from the Minister to the Secretary of the Department administering the Act. This was done to ensure that licensing decisions can be made by the regulator without requiring delegations from the Minister, and so that the Secretary can approve a computer program to make certain automated licensing decisions.

The proposal

The Secretary will be substituted for the Minister in rules regarding:

- Deducting scallops caught under a fishing licence (scallop) from the quota unit balance of that licence for the current quota period;
- Transferring a fishing licence (scallop) from one person to another;
- Transferring scallop quota units; and
- Deactivating a fishing licence (scallop) with fewer than 50 scallop quota units.

Implication of Change

This will allow for faster administrative decisions.

Relevant rules: Rule 26(2), Rule 33, Rule 35, and Rule 36(5)

9 Other minor amendments

Rule 3 – Interpretations

Fishing trip: Moved from rule 3 (4) to rule 3 (1) of the *Fisheries Scallop (Rules) 2020*, and amended to reflect the interpretation applies to a fishing trip for commercial purposes.

Fish merchant: Including definition from the *Fisheries Rules 2019*.

Holder of a fishing licence: Moved from rule 3(3) to rule 3(1).

Non-commercial fishing trip: New interpretation for the purposes of rule 15A.

Published notice: Replaces the term notice throughout the *Fisheries Scallop (Rules) 2020*, making the rules consistent with other fisheries management plans.

Scallop quota docket and catch record book: new interpretation for the purposes of rule 58.



Rule 6 – Consultation arrangements

Rule amended substituting “appropriate” with “relevant”, this won’t make any material change to consultation arrangements.

Rule 57 – Processor returns

The time to submit a processor return has been reduced from 7 days to 48 hours after the end of the month, bringing this into line with processor returns submitted in other fisheries.

Rule 66 – Vessel Monitoring System

Following amendments to the *Fisheries Rules 2019*, a requirement to use a vessel monitoring system (VMS) in a fishery is now established by a published notice, rather than a notice to the supervisor of a licence directing to fit a VMS under the Rules. As a result, “rule 66 – Vessel monitoring systems” has been removed.





Department of Natural Resources and Environment Tasmania
Wild Fisheries Management Branch | Marine Resources

Phone:
(03) 6165 3000

Email:
fisheries.review@nre.tas.gov.au

fishing.tas.gov.au