



## **Response to Rock Lobster Fishery Proposed Rules and Policy Changes (May 2022)**

### INTRODUCTION – FOR RULE CHANGES (NOT EAST COAST PROPOSALS)

TARFish acknowledges the pressing need for the Rock Lobster Fishery Management Plan (the *Fisheries (Rock Lobster) Rules 2011*) to be remade owing to the expiration on 31 October 2022.

It is important to consider their remake in the context of several other processes underway or due to commence. Specifically, the review of the *Living Marine Resources Act 1995* (the LMRA of the Act), the development of a resource sharing framework, and a harvest plan for the rock lobster fishery.

These are crucial to the development of new rules that will have effect for a decade.

TARFish is particularly concerned that the development of the harvest strategy and the outcome of the review of the LMRA (i.e. new or amended legislation) is a necessary consideration and therefore rule changes that are likely to have a significant impact on the nature, structure and returns to community from the rock lobster fishery should be minimised in this process. Major changes could be facilitated by later rule amendments. TARFish notes that the current rules were amended seven times in the last decade demonstrating that later change to the rules could be considered.

On balance, the overall rule changes proposed for recreational fishers are well supported by TARFish and the following sets out the specific issues or concerns related to each matter.

Regarding the proposed commercial rule changes, TARFish has confined its comments to those aspects that may impact the overall fishery or increase conflict between the two sectors and specifically the proposed 60 pot area and carry over provisions.

TARFish has limited comment on the proposed east coast policy changes as it not appropriate to assess each individual measure but should be considered as a package of initiatives with their combined impact properly modelled. TARFish has provided its rock lobster policy position to assist the Government understand TARFish's position on rock lobster.

### PART 2:

#### **Changes for all fishers**

##### **Aligning regional size limits with growth rates**

TARFish is generally supportive of aligning rock lobster size limits with regional growth rates as it:

- Underpins stock recovery
- Increases productivity

- Improves spawning rates
- Increases long-term catch rates

Overall, TARFish supports the alignment of the size limits with growth rates and through participation in the community consultation sessions, it appeared there was broad support amongst those that attended.

However, the short-term impact on recreational fishers is disproportionate. Based on the Institute for Marine and Antarctic Studies (IMAS) document titled "*Information regarding the NRE Tas size limit proposal for the Tasmanian Rock lobster fishery*" which states "This change is likely to result in CPUE decreases of 25% (stock assessment area 3) to 50% (stock assessment area 2)..."

This represents a significant reduction in the recreational catch for the next 2-3 years.

Using the available numbers (noting that TARFish has requested a formal modelled impact of the catch reduction but it is not available at the time of writing), it appears that the overall impact on the recreational catch will be a reduction of approximately 15% state-wide.

This is concerning for a number of reasons.

There is no indication that there will be a commensurate reduction in the commercial TAC (TACC) by 15%. Whilst their CPUE will also reduce, it does not follow that the catch will be reduced, only that it will take more effort to catch it. This compares to the recreational catch whereby it is unlikely that recreational fishers will increase effort to catch the same amount as in previous years.

The weight of this measure to constrain catch is therefore entirely borne by the recreational sector. This is an unacceptable outcome.

To expand further, this is particularly concerning for the East coast (Areas 1-3) where 75% of the recreational catch comes from. Areas 2 and 3 representing 33% of the overall recreational catch will experience a 25-50% potential reduction in catch for the next 2-3 years.

TARFish acknowledges that there was a 10% reduction in the commercial East Coast Catch Cap to 94 tonnes however this reduction was not removed from the overall TACC. It also shows that the recreational sector will experience a proportionally greater drop in catch compared to the commercial sector on the East Coast.

It is not reasonable to expect recreational fishers to have their catch on the East Coast effectively constrained as a result of this measure whereas the commercial sector is expected to maintain catches in this area through increased fishing effort.

This is not an equitable outcome.

TARFish has formed the view that there are two potential equitable solutions:

1. Constrain the commercial catch in Areas 2-3 by between 25-50% for the next 2-3 years; or
2. Close the East coast fishery for 1-2 years to all sectors to accelerate recovery; or
3. Extend the recreational season to align with the general season opening in November.

In addition, through the state-wide consultation process it was evident that there was significant support from amongst recreational fishers to close the east coast fishery for 1-2 years to all sectors to accelerate recovery.

Further, the commercial 'race to fish' argument by IMAS is questionable given prevailing market forces that are driving catches of larger (1-1.5kg) red fish with some processors

refusing to take any brindles. The East Coast supports these larger, red fish and therefore despite the reduction in CPUE it is unlikely to deter the 'race to fish' as the market is driving the effort. Anecdotally, across both sectors, many fishers are of the view that the East coast is fishing 'better than it has been in years' which further supports the argument that the 'race to fish' will not be significantly mitigated.

TARFish notes that the introduction of size limit regions aligned with growth rates will increase complexity of management due to the number of 'lines on maps' and recommends that should the changes come into effect that there is significant communication with recreational fishers to facilitate broad compliance with the changes.

As previously noted, TARFish would like to see specific modelling on the impact in terms of biological benefit particularly for extending the female size to 120mm all the way around from the north to the East Coast. By extending the increased size limit around the east coast it removes one more compliance line. However, TARFish expects that the impact on this in the southern parts of the East coast may have a substantial additional impact on catch rates in this region. Therefore, TARFish supports maintaining the lines as presented.

The above comments reinforce the need to have a whole-of-fishery harvest strategy in place as quickly as possible.

TARFish also welcomes the introduction of Vessel Monitoring Systems on all commercial rock lobster vessels and notes that this was a recommendation of RecFAC in February 2020.

## **Recreational fishery changes**

### **Tail marking recreational rock lobster**

TARFish is generally supportive of the proposed tail marking for regional catches.

TARFish notes that comments were made in community consultation meetings that there is potential for recreational fishers to tail mark just undersize fish and returning to the water from a view that it prevents commercial fishers from taking the fish later in the season as they grow through. However, TARFish considers this to be unlikely and certainly not widespread. Further, this would only apply to fish that have not shelled, again reducing the long-term impact.

### **Recreational transiting reports**

#### *Zone transiting reports*

TARFish is generally supportive of the zone transiting provisions.

TARFish notes that the requirement is "at least 1 hour before transiting". TARFish suggests that any time before transiting is adequate. However, it would be preferable to have a "pre-departure report" as those impacted likely to know they will be transiting pre-departure. That way all that is required is a cancellation report if the fisher changes intended fishing location.

#### *Gear transiting report*

This is non-sensical as it is, in reality, no solution. To allow gear to be transported through a closed zone for the purpose of fishing but not then permit transiting on the return journey is not acceptable.

It is TARFish's view that transiting with fish on board through a closed zone be permitted if a transiting report is made.

Ideally, this could be facilitated through the rock lobster app that is currently in development.

In addition, TARFish strongly supports, and has long advocated that the southern boundary of the East Coast Stock Rebuilding Zone be shifted so that Dover can be included in the open zone.

### **Sharing rock lobster when in a group**

TARFish welcomes the introduction of catch sharing arrangements and advocated strongly for its inclusion in the Recreational Sea fishing Strategy. Catch sharing delivers on the action contained within the Recreational Sea Fishing Strategy.

TARFish considers the proposal to be acceptable overall except for the proposed 250m rule, whereby potters sharing catch must have pots within 250m of each other.

TARFish's preferred alternative is to be "within reasonable proximity" which could be defined as one of:

Within line of sight; or

Within 1km

TARFish also notes that these changes may result in increased compliance costs and encourages NRE to specifically estimate the cost increases of compliance from all rule changes proposed to ensure they can be adequately communicated and enforced.

### **Holding Rock Lobster on an unattended vessel**

TARFish is supportive of this change as it allows campers and day trippers to leave fish on unattended vessels for a short period. Although it is unlikely to impact many fishers, it does provide clarity and certainty to those that intend to leave their vessel.

This initiative could be further supported by requiring those that intend to leave their fish on their vessel to log the number of fish on the rock lobster app currently in development.

### **Lost or irretrievable gear reporting service**

TARFish supports the changes to the irretrievable gear reporting service as it reduces the pressure on the Fishwatch service. This initiative could be further supported by including the ability to log lost or irretrievable gear in the rock lobster app currently in development to further streamline the process and reduce the need to use a telephone service.

TARFish also recommends good quality communication with rock lobster licence holders to ensure they are aware of the new reporting number.

TARFish further recommends that the telephone service be adequately resourced as rock lobster fishing often happens on weekends and outside regular business hours.

### **Recreational catch reporting**

TARFish offers qualified support for recreational catch reporting. Specially, TARFish supports the use of mandatory catch reporting for recreationally licensed fishers and would only be used when fishery is rated as unsustainable (i.e. under 40% virgin biomass).

TARFish suggests that should reporting be made mandatory that the current monitoring methods are run in tandem for a period to ensure that there is sufficient confidence in the data captured.

### **Discontinuing the special rock lobster licence**

TARFish supports discontinuing the special rock lobster licence on the basis it impacts a relatively small number of fishers (approximately 60) and is not well supported by the west coast community as it facilitates increased catch concentrations over a relatively small area that is often limited by weather conditions.

### **Presumption of take and possession**

TARFish supports this rule change on the basis it improves compliance and reduces potential for poaching.

## **Commercial Fishery Changes**

TARFish is confining its comments on commercial fishery changes to those aspects that may impact the overall fishery or increase conflict between the two sectors and specifically the proposed 60 pot area and carry over provisions.

### **Expanding the 60-pot area**

TARFish does not support the expansion of the 60-pot area for several reasons.

#### *Localised depletion*

TARFish is concerned that the concentration of effort from individual vessels may result in localised depletion, particularly as the commercial market is demanding larger, red fish which results in increased inshore fishing activity. Further, it is likely that this will increase conflict between recreational and commercial fishers in these areas.

#### *Transfer of effort*

TARFish is of the view that the prevailing market conditions for larger, red fish has resulted in a substantial transfer of effort to the north-west coast of Tasmania. This is evidenced by the 40% increase in commercial catch from Area 5 over the last 5 years from 198t in 2016 to 275t in 2020. This catch represents over 25% of the TACC coming from a highly compromised area which currently has a biomass of 11% and egg production at 16%. An expansion of the 60-pot area to include Area 5 in particular is likely to increase the number of vessels from other parts of the state targeting the area. This is inconsistent with best-practice fisheries management.

#### *Absence of harvest strategy to guide decision making*

The expansion of the 60-pot area in advance of development of a fishery harvest plan is counter to best practice fisheries management. TARFish notes the significant number of changes made to the current Rock Lobster rules throughout their 10-year application and strongly recommends that the 60-pot area be considered under a harvest strategy. Given the poor state of the fishery in the areas that are proposed to expand the 60-pot area, it could reasonably be concluded that NRE may be perceived as managing the commercial sectors profit interests above fisheries resource management.

On balance, TARFish is of the view that the expansion of the 60-pot rule should not be supported or implemented until a harvest strategy is in place and the review of the LMRA is completed. This will ensure that any change aligns with these two critical guiding documents.

## Carry-over provisions

TARFish does not support the capacity to carry over TACC if under-caught in exceptional circumstances provisions.

As described in TARFish's submission to the LMRA Review, TARFish identified risks associated with the decision-making powers of the Minister, specifically:

No requirement to provide a statement of reasons when a decision is made

The absence of harvest strategies (except abalone) and other binding documents such as a resource sharing framework to inform and guide decisions

The potential for political influence of decisions

No effective review or appeal rights to decisions unless through the Resource Management and Planning Appeals Tribunal (RMPAT) or in some instances the parliament (for rule changes)

The new rule as proposed would provide the Minister with effectively an unbounded decision-making power. This is particularly so in the absence of a Harvest Strategy.

TARFish also questions the framing of this rule change in the Proposed Rule Changes discussion paper which uses the example of "Covid-19". Covid-19 had very little impact on the commercial rock lobster sector. It was the result of loss of access to the Chinese market. The commercial sector has made a deliberate and longstanding decision, and known risk, to prioritise profit by selling almost exclusively to the Chinese Market. Their failure to develop other markets or distribute risk by having a spread of markets (some with less profitability) is a risk that was taken on by the sector.

It is unclear to TARFish why the Minister responsible for fisheries resource management would be exposing the Government to the significant risk of market manipulation. This risk is amplified by the absence of any definition of "exceptional circumstances" or process or evaluation method by which it is determined. There is also no independence to the assessment. It relies solely on the discretion of the Minister of the day. This is an unacceptable outcome.

With regard to "exceptional circumstances" involving biosecurity, the Minister currently has the power to issue directions under the LMRA (section 270). Subsection (4) states "A direction under subsection (1) may be inconsistent with a management plan and, in such a case, the direction prevails to the extent of the inconsistency." This clause therefore allows the Minister to make a carryover provision in the event of a biosecurity event. Therefore, it can be assumed that the inclusion of this rule change is for the specific purpose of enacting carry-over for market-driven circumstances. TARFish re-states that it is unclear why the Minister responsible for fisheries resource management would be exposing the Government to the significant risk of market manipulation.

In terms of its application with regard to resource management, any decision regarding carry-over would need to align with a harvest strategy.

Therefore, in TARFish's view, there should be no change to the carry-over provisions until the review of the LMRA is completed and the harvest strategy in place.

### PART 3: EAST COAST POLICY

TARFish understands the need to socialise concepts regarding a specific East Coast Rock Lobster policy, particularly given its import to recreational fishers.

Overall, TARFish considers the risk of developing positions at this early stage of development of the new strategy to be risky and looks forward to seeing the responses from recreational fishers before formulating a specific view on many of the proposals.

TARFish also notes that at RecFAC meeting #77 there was a recommendation for a review of the current East Coast Stock Rebuilding Plan.

It is important to understand what aspects of that plan worked well and how it could be improved for any future plan. It would also assist in the development of a fishery-wide harvest plan. It appears unusual that a 10-year strategy would not be reviewed at its conclusion and is of concern to TARFish that one is not being progressed to inform this process.

#### TARFish recommendation:

That a review of the *East Coast Stock Rebuilding Strategy 2013-2023* be undertaken to identify what worked well and what could be improved for any future plan.

In 2020, TARFish developed a Rock Lobster Policy and consulted it with recreational fishers. It received broad support and is provided as an attachment to this document as it sets out the organisations position and approach to rock lobster management, including the East Coast.

#### TARFish recommendation:

That the Department consider TARFish's Rock Lobster policy as a response from TARFish to be read in conjunction with this document.

TARFish is of the strong view that a 'scenario' based approach to developing East Coast options be taken that includes all measures proposed, the stock rebuilding target and time to achieve it, assessment of alignment with a fishery-wide harvest strategy, and modelled impacts on the sectors.

#### TARFish recommendation:

That a 'scenario' based approach to developing East coast options be taken that includes all measures proposed, the stock rebuilding target and time to achieve it, assessment of alignment with a fishery-wide harvest strategy, and modelled impacts on the sectors.

This would allow fishers from all sectors to determine which "scenario", on balance and with all of the necessary information, is most acceptable to them.

TARFish has provided comment below on three matters:

- Scope of the policy
- Stock rebuilding targets
- Size limits

## Scope of East Coast Policy

TARFish strongly supports returning the entire rock lobster fishery to a sustainable level and notes the extreme importance that recreational fishers place on the east coast Areas (1-3) as 75% of recreationally caught rock lobster comes from these areas.

However, TARFish considers that a state-wide harvest strategy is needed prior to formulating a specific East Coast Policy. It is important to consider any specific settings for the East Coast in light of an overall fishery harvest strategy to ensure that we do not 'sit on a balloon', that is, where a group of settings for one area inadvertently impacts on another area through things like displaced effort for example.

### TARFish recommendation:

- (a) That a state-wide harvest strategy be developed prior to formulating an East Coast policy.
- (b) That any East Coast policy must demonstrate that it will not result in further deterioration of the remainder of the fishery.

To further explain, the Government has identified the Limit Reference Points (LRP's) for Egg Production and Virgin Biomass are a "bottom line". The Institute for Marine and Antarctic Studies (IMAS) 2020/21 Preliminary Rock Lobster Assessment Summary (IMAS Assessment) states, "This reference point has been set at a level below which subsequent recruitment may be impacted, hence is a critical limit reference point for ensuring sustainability."

The current egg production limit and virgin biomass limits are well below the LRP's for Areas 2-5.

Area	Biomass	Egg Prod
LRP	20%	30%
1	23%	45%
2	13%	22%
3	15%	23%
4	18%	21%
5	13%	16%
6	33%	44%
7	21%	44%
8	40%	65%

The Department has advised it is keeping a 'watching brief' on Areas 4-5 despite the Government's own LRP's being breached. To not take action with a management plan for all areas below these limits is not appropriate. Despite this, the TACC reduction on the East Coast was not applied to the overall TAC and the result is the expected transfer of effort. This is evidenced most strongly in Area 5 which has experienced a 39% increase in commercial catch over the last 5 years.

Using the logic and arguments applied by the Government in its discussion document for the need for an East coast Stock Rebuilding Plan, it follows that a plan is also required for Areas 4-5 or the East Coast plan is extended to Areas 4-5.



TARFish recommendation:

- (a) That Areas 4 and 5 are added to the East coast Policy; or
- (b) That Areas 4 and 5 have their own stock rebuilding strategy developed alongside the East Coast strategy.

TARFish is of the strong view that management decisions must support the LRP's being maintained at a minimum.

The overall Total Allowable Catch (TAC) is the primary control to constrain catch.

Repeating a points in TARFish's last two TAC submissions: the report titled In pursuit of maximum economic yield in an ITQ managed lobster fisher (Gardner et al, 2015) states "A gradual change in TACC of even 1% per annum also improved biological performance measures. Catch rate (and thus revenue per potlift) improved as stock rebuilding occurred with lower TACCs. Egg production is used as a measure of biological sustainability in this fishery and the projected median trend was downward under the status quo TACC, but this trend was reversed by annual 1% TACC reductions."

When viewed in this context, a 1-2% reduction is meaningful in retuning to a minimum safe level for the fishery.

TARFish recommendation: That TAC setting is an important mechanism for constraining catch which needs to be applied to demonstrate the Government's commitment to its own Limit Reference Point (LRP) for all Areas.

## **Stock rebuilding targets**

It is TARFish's view that the stock should be returned to a minimum of 40%. However, it is not possible to develop a fully informed view on the stock rebuilding targets as no information is provided as to what the impact is on all sectors by reaching them at proposed times or earlier or later timeline. For example, it may be preferable to extend the timeline by 2 years to preserve access to the fishery or it may be better to speed up recovery with a complete closure so that catch restrictions can be reduced sooner.

As noted previously, TARFish is of the strong view that a 'scenario' based approach to developing East Coast options be taken that includes all measures proposed, the stock rebuilding target and time to achieve it, assessment of alignment with a fishery-wide harvest strategy, and modelled impacts on the sectors.

## **Size limits**

There appears to be strong reliance on the overall benefit of size limits, including for the East coast.

As stated earlier in this submission, the introduction of the proposed size limits will likely reduce the Recreational take by 15% over the next 2-3 years.

However, there is no indication that there will be a commensurate reduction in the commercial TAC (TACC) by 15% from the East Coast. Whilst their CPUE will also reduce, it does not follow that the catch will be reduced, only that it will take more effort to catch it. This compares to the

recreational catch whereby it is unlikely that recreational fishers will increase effort to catch the same amount as in previous years.

The weight of this measure to constrain catch is therefore primarily borne by the recreational sector. This is an unacceptable outcome.

This is particularly concerning for the East Coast (Areas 1-3) where 75% of the recreational catch comes from. Areas 2 and 3 representing 33% of the overall recreational catch will experience a 25-50% potential reduction in catch for the next 2-3 years.

TARFish acknowledges that there was a 10% reduction in the commercial East Coast Catch Cap to 94 tonnes however this reduction was not removed from the overall TACC. It also shows that the recreational sector will experience a proportionally greater drop in catch compared to the commercial sector on the East Coast.

It is not reasonable to expect recreational fishers to have their catch on the East Coast significantly constrained as a result of this measure whereas the commercial sector is expected to maintain catches in this area through increased fishing effort.

This is not an equitable outcome.

TARFish recommendation: That the principle of equity should be applied when introducing measures to improve sustainability.

TARFish has formed the view that there are three potential equitable solutions:

- (a) Constrain the commercial catch in Areas 2-3 by between 25-50% for the next 2-3 years; or
- (b) Close the East coast fishery for 1-2 years to all sectors to accelerate recovery; or
- (c) Extend the recreational season to align with the general season opening in November.