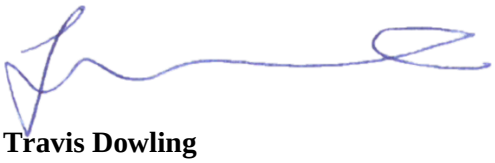
Fisheries Act 1995

FISHERIES NOTICE 2022

I, Travis Dowling, Chief Executive Officer of the Victorian Fisheries Authority, as delegate for the Minister for Fishing and Boating, having undertaken consultation in accordance with Section 3A of the **Fisheries Act 1995** (the Act), make the following Fisheries Notice under Sections 67, 114 and 152 of the Act:

Date: 6/6/2022



Travis Dowling
Chief Executive Officer
Victorian Fisheries Authority

FISHERIES (EEL AND PIPI ELECTRONIC TRACKING) NOTICE 2022

1. *Title*

This Notice may be cited as the Fisheries (Eel and Pipi Electronic Tracking) Notice 2022.

2. *Objectives*

The objectives of this Notice are to require the carriage and operation of an Electronic Tracking System during the carrying out of fishing activities under an Eel Fishery Access Licence, an Aquaculture (Crown Land—Eels) Licence, a Pipi Fishery Access Licence or a General Permit that authorises the taking of pipi or eel for sale.

3. *Authorising provision*

This Notice is made under sections 67, 114 and 152 of the Act.

4. *Commencement*

This Notice comes into operation on the date of gazettal.

5. *Definitions*

In this Fisheries Notice –

ALC – means an automatic location communicator device of a type approved by the VFA.

Fishing operation means the carrying out of any activities authorised under a specified licence or permit and includes –

(1) the using, setting, retrieving, transporting or inspecting of commercial fishing equipment or commercial aquaculture equipment in or on Victorian waters; and

(2) the use of a boat on Victorian waters in connection with the carrying out of activities authorised under the licence, (including the activities specified in sub-clause (1)).

General permit – means a permit issued under section 49 of the Act;

Immediate possession in relation to an electronic tracking system means –

(1) if the person is on a boat – the ALC is in, on or attached to the boat;
(2) if the person is in or on a vehicle – the ALC is in, on or attached to the vehicle; or
(3) in any other case – the ALC is carried by the person.

Responsible person – means the holder of a specified licence or permit, or a person acting or purporting to act under a specified licence or permit.

Specified licence or permit – means any of the following licences or permit –

(1) an Aquaculture (Crown Land—Eels) Licence;
(2) an Eel Fishery Access Licence;
(3) a General Permit that authorises the taking of eel for sale or commercial purposes;
(4) a General Permit that authorises the taking of pipi for sale or commercial purposes; or
(5) a Pipi Fishery Access Licence.

The specified period –

(1) In the case of a Pipi Fishery Access Licence or General Permit that authorises the taking of pipi, starts 1 hour prior to the commencement of a fishing operation and ends when –
   (a) in the case of a Pipi Fishery Access licence, the licence holder has complied with regulation 84(6) of the Regulations;
   (b) in the case of a General Permit that authorises the taking of pipi, the permit holder has completed all weighing and post-fishing reporting requirements required under the permit;

(2) In any other case, starts 15 minutes before the commencement of a fishing operation and ends when the latter of the following happens –
   (a) when a boat used to carry out fishing activities has been retrieved from the water;
   (b) the completion of all activities under the fishing operation.

The Act means the **Fisheries Act 1995**

The Regulations means the **Fisheries Regulations 2019**

VFA means the Victorian Fisheries Authority established under the **Victorian Fisheries Authority Act 2016.**

6. *Requirement for the electronic tracking system*

(1) The holder of a specified licence or permit, or another person acting under the licence or permit, must ensure that during the specified period the responsible person for that fishing operation has in their immediate possession an electronic tracking system that complies with the conditions for the use of the system set out in clause 8 of this notice.

Penalty: 50 penalty units

7. *Prohibition on fishing without electronic tracking system*

(1) For the purposes of section 67 of the Act,
   (a) the taking or landing of fish; or
   (b) the possession of fish in, on or next to Victorian waters –

by a responsible person, is prohibited unless the responsible person has in their immediate possession an electronic tracking system that complies with the conditions for the use of the system set out in clause 8 of this notice.

(2) For the purposes of section 114 of the Act,

(a) the use of commercial fishing equipment; or

(b) the possession of commercial fishing equipment in, on or next to Victorian waters –

by a responsible person, is prohibited unless the responsible person has in their immediate possession an electronic tracking system that complies with the conditions for the use of the system set out in clause 8 of this notice.

8. Conditions for use electronic tracking system

(1) For the purposes of clauses 6 and 7 of this notice, the conditions that a responsible person must comply with when using electronic tracking system are set out in this Clause.

(2) A responsible person must ensure that an electronic tracking system used by the person includes, or consists of, an ALC of a type that has been approved by the VFA.

(3) A responsible person must ensure that —

(a) the system is operated in the manner approved by the VFA; and

(b) the system is maintained in accordance with the manufacturer's instructions; and

(c) the person takes all reasonable steps to ensure the system is not—

(i) interfered with or tampered with in any way; or

(ii) altered, damaged or disabled; and

(d) at all times while undertaking a fishing operation, the system is operating in a state—

(i) whereby the person's position can be reported on to the VFA; and

(ii) that is using a power mode that is not less than the power mode used in normal operation of the system; and

(e) if the system is not fully operational, the responsible person does not undertake the fishing operation unless authorised by the VFA.

(4) For the purposes of sub-clause (3)(e), the VFA may authorise in writing a responsible person undertake a fishing operation if the VFA is satisfied that there are special circumstances justifying such an authorisation.

(5) The VFA must specify in an authority under sub-clause (4)—

(a) the place at which the authority applies; and

(b) the period during which the authority applies; and

(c) the circumstances in which the authority applies; and

(d) any conditions which apply to the authority.

9. Requirement to specify and maintain method of communication

A holder of a specified licence or permit must –

(a) provide the VFA, in the manner required by the VFA, a mobile telephone number that the VFA may use to contact the person carrying out the fishing activities under the licence or permit whenever that person is carrying out those activities; and

(b) make all reasonable efforts to respond in a timely manner to messages sent to the telephone number specified in sub-clause (a).

Penalty: 50 penalty units

10. Application to Fisheries Reserves

For the purposes of section 152(4), this notice applies to all Fisheries Reserves.

11. Revocation

Unless sooner revoked, this Notice will be revoked on 31 May 2023.

Notes:

Contravention of any prohibition under sections 67 or 114 of the Act, as set out in this Fisheries Notice, is an offence under that section of the Act. A maximum penalty of 100 penalty units or 6 months imprisonment or both applies.