



Australian Government



Tasmanian
Government

MEMORANDUM OF
UNDERSTANDING

BETWEEN

THE COMMONWEALTH OF
AUSTRALIA

AND

THE CROWN IN RIGHT OF TASMANIA

To support the implementation and operation of an
aquaculture research trial in Commonwealth waters adjoining
Tasmanian waters in Bass Strait

MOU Information

Parties

Name The Commonwealth of Australia

Short form name **Commonwealth**

And

Name The Crown in right of Tasmania

Short form name **Tasmania**

Background

- A The *National Aquaculture Strategy 2017* (the **Strategy**) sets out eight priorities to support the growth of a strong, competitive, resilient, profitable and ecologically sustainable aquaculture industry.
- B The Commonwealth and Tasmania signed a Memorandum of Understanding to support the implementation of the Strategy enabling off-shore aquaculture in adjoining Commonwealth waters on 27 September 2021 (the **First MOU**).
- C Consistent with the Strategy and the First MOU, the Commonwealth and Tasmania have agreed to enter into an arrangement under s 72 of the *Fisheries Management Act 1991* (Cth) and s 161 of the *Living Marine Resources Management Act 1995* (Tas) in relation to marine aquaculture research activities in Commonwealth waters adjacent to Tasmanian State waters in the Bass Strait (the **Fisheries Arrangement**).
- D The Parties have agreed to enter into this Memorandum of Understanding (MOU) to support and facilitate the implementation of the Fisheries Arrangement by supporting the conduct of a research trial of aquaculture.

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Terms

Part 1 – General

1. Definitions and interpretation

1.1 Definitions

In this MOU, except where the contrary intention is expressed, the following definitions are used:

Term	Meaning
Expiry Date	means the date one day after the Commonwealth confirms in writing to Tasmania its acceptance of the final report referred to in clause 6.2(d)(iv).
First MOU	means the Memorandum of Understanding to support the implementation of the Strategy enabling off-shore aquaculture in adjoining Commonwealth waters which was signed by the Commonwealth and Tasmania on 27 September 2021, a copy of which is attached to this MOU at Schedule 1.
Fisheries Arrangement	means the arrangement between the Commonwealth and Tasmania under s 72 of the <i>Fisheries Management Act 1991</i> (Cth) and s 161 of the <i>Living Marine Resources Management Act 1995</i> (Tas), substantially in the same form as the document which is attached to this MOU at Schedule 2 and which is intended to be signed by the Parties on or around the same date as this MOU.
Fisheries Arrangement Area	means the area defined as the 'relevant waters' in the Fisheries Arrangement.
Parties	means the Commonwealth and Tasmania.
Permit	means a permit granted by Tasmania under the <i>Living Marine Resources Management Act 1995</i> (Tas).
Research Trial	means the conduct of activities for research by way of marine farming operations for a term of three years or less by the Trial Operator in the Trial Area.
Schedule	means a schedule to this MOU.
Strategy	means the <i>National Aquaculture Strategy 2017</i> .
Trial Area	means that part of the Fisheries Arrangement Area defined by the coordinates: NW corner: 145° 55' 36.48312" E 40° 57' 22.7621" S SW corner: 145° 55' 36.76380" E 40° 57' 50.32994" S SE corner: 145° 56' 02.09006" E 40° 57' 50.33792" S

NE corner: 145° 56' 01.16491" E
40° 57' 22.76464" S

Trial Operator means the Blue Economy Cooperative Research Centre, as managed by Blue Economy CRC-Co Ltd (ABN 64 634 684 549)

1.2 Interpretation

- (a) In this MOU:
- (i) where this MOU refers to:
 - (A) a government department, agency, body or authority; or
 - (B) any person holding a specified position in a government department, agency, body or authority,and that department, agency, body, authority or position is changed or abolished, then that reference will be deemed to be a reference to the department, agency, body, authority or position performing the equivalent function from time to time; and
 - (ii) the Schedules are incorporated into and form part of this MOU.
- (b) This MOU should be read in conjunction with, and does not override any relevant and related legislative obligations, agreements, frameworks or policies.

2. Purpose

The purpose of this MOU is to provide a mechanism for cooperation and collaboration and record the Parties agreement on how they intend to manage, support and facilitate the implementation of the Fisheries Arrangement and the Research Trial, including the intended roles and responsibilities of the Parties.

3. Non-binding nature

- (a) The Parties agree that this MOU is not intended to create legally binding rights and obligations or an enforceable agreement between the Parties.
- (b) The parties acknowledge that this MOU shall in no way unlawfully restrict or otherwise unlawfully affect or fetter any discretion of the parties in the exercise of their functions under Commonwealth or Tasmanian law.

4. Term

- (a) This MOU commences on the date it is signed by both Parties and will expire on the Expiry Date.
- (b) The Parties may end the arrangements in this MOU by giving notice in writing.

5. Relationship between the Parties

- (a) The Parties will work closely together to support and facilitate the implementation of the Fisheries Arrangement to enable the Research Trial.
- (b) Each Party will:

- (i) act in the spirit of cooperation and good faith in the performance of this MOU and do all things necessary or desirable to give full effect to the arrangements contemplated by this MOU;
- (ii) liaise with the other Party as necessary;
- (iii) provide all information as specified under the MOU and in a timely manner; and
- (iv) properly inform and keep the other Party informed of any matter which could impact the other Party, relating directly or indirectly to this MOU or anything which this MOU may contemplate.

to ensure that the Parties are able to perform their intended roles and responsibilities as set out in this MOU.

- (c) The Parties will consult with each other in relation to any proposed public statement or media relating to the Fisheries Arrangement or Research Trial.

6. Management of the Fisheries Arrangement and Research Trial

6.1 Fisheries Arrangement

The Parties acknowledge that the Fisheries Arrangement operates under the following parameters set by respective Commonwealth and Tasmanian legislation:

- (a) Tasmania may, pursuant to the *Living Marine Resources Management Act 1995* (Tas), grant a Permit for the marine farming of fish for research purposes in the Fisheries Arrangement Area pursuant to the Fisheries Arrangement;
- (b) Commonwealth laws and approvals will apply to any aquaculture development and research activities in Commonwealth waters including any relevant marine and environmental laws;
- (c) the Fisheries Arrangement is limited to research and accordingly no commercial-scale marine farming operations can be undertaken pursuant to the Fisheries Arrangement or may be undertaken within the Fisheries Arrangement Area; and
- (d) Tasmania may declare a research area to apply to all or part of the Fisheries Arrangement Area pursuant to s143 of the *Living Marine Resources Management Act 1995* (Tas) that may include specified restrictions on entry, fishing or any other matter

6.2 Research Trial and activities incidental to the Research Trial in the Fisheries Arrangement Area

The Parties intend for the following arrangements to supplement the Fisheries Arrangement with respect to the management of the Research Trial and activities incidental to the Research Trial in the Fisheries Arrangement Area:

- (a) Legislation and Policy
 - (i) Tasmania will manage the Research Trial and activities incidental to the Research Trial in the Fisheries Arrangement Area in accordance with the *Living Marine Resources Management Act 1995* (Tas) and in compliance with all relevant Tasmanian and Commonwealth laws and policy; and
 - (ii) Tasmania will publish policy guidance for managing marine aquaculture research activities applying to the Research Trial and activities incidental to the Research Trial in the Fisheries Arrangement Area including guidance on environmental, biosecurity, animal welfare, wildlife, and aquaculture operations matters.

- (b) Area
 - (i) The Research Trial will be conducted in the Trial Area;
 - (ii) the Parties may jointly agree in writing to relocate the Trial Area within the Fisheries Arrangement Area;
 - (iii) activities incidental to the Research Trial may be conducted in the Fisheries Arrangement Area; and
 - (iv) if a declaration as described in clause 6.1(d) of this MOU is made, a 'research area' may be applied to all or part of the Trial Area and may include specified restrictions on entry, fishing or any other matter. The Parties may jointly agree in writing to such a declaration in respect to parts of the Fisheries Arrangement Area that are outside of the Trial Area.
- (c) Consultation
 - (i) Tasmania will consult with the Commonwealth when considering any Permit applications it receives; and
 - (ii) the application criteria for any Permit for the Research Trial, will require the Trial Operator to:
 - (A) undertake appropriate stakeholder engagement, including with relevant Commonwealth and Tasmanian fisheries bodies and peak industry associations; and
 - (B) engage with relevant Commonwealth agencies, including the Australian Marine Safety Authority, in relation to the design and implementation of the Research Trial.
- (d) Information sharing
 - (i) The Parties will share information relating to the Research Trial and activities incidental to the Research Trial and acknowledge that the sharing of such information will be for the purposes of furthering the objectives of the First MOU in addition to the objectives of this MOU;
 - (ii) Tasmania will provide to the Commonwealth a copy of any Permits granted for the marine farming of fish for research purposes in the Fisheries Arrangement Area;
 - (iii) the Parties will meet regularly and as needed to monitor the progress of the Research Trial;
 - (iv) Tasmania will provide to the Commonwealth a report on the outcomes of the Research Trial and any activities incidental to the Research Trial in the Fisheries Arrangement Area within 6 months of the Research Trial being completed by the Trial Operator. Such report may be prepared by the Trial Operator and may be provided to Tasmania as a condition of any Permit.

Part 2 – Administration

7. Representatives

7.1 Parties representatives

The Parties' representatives, as set out below, are responsible for the operational coordination and management of this MOU:

- (a) Commonwealth's representative is:

Deputy Secretary, Agriculture Policy, Research & Portfolio Strategy Group, Department of Agriculture, Water and Environment

At the commencement of this MOU, the Deputy Secretary is Rosemary Deiningger.

- (b) Tasmania's representative is:

Deputy Secretary, Primary Industries and Water, Department of Natural Resources and Environment Tasmania

At the commencement of this MOU, the Deputy Secretary is Deidre Wilson.

8. Variation

Any variation to this MOU may be made by written agreement signed by both Parties.

9. Confidential Information

- (a) Each Party agrees not to disclose confidential information without the other Party's prior written consent.

- (b) Nothing in this clause prevents:

(i) a Minister of the Australian Government or of the Tasmanian Government from publishing or disclosing confidential information if that Minister is required to disclose that confidential information to a House or Committee of the Commonwealth Parliament or of the Tasmanian Parliament in order to properly discharge that Minister's duties or responsibilities as a Minister of the Crown or the Commonwealth; or

(ii) a Party from publishing or disclosing the confidential information of the other Party to the extent that the publication or disclosure:

(A) is required by law; or

(B) is made on a confidential basis to professional advisers for the purpose of obtaining professional advice in relation to this MOU.

- (c) For the avoidance of doubt, confidentiality may not be used by a Party as a reason for refusing to provide information concerning the arrangements under this MOU to the other Party.

Schedule 1 – First MOU



Australian Government



**Tasmanian
Government**

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE COMMONWEALTH OF AUSTRALIA

AND

THE CROWN IN RIGHT OF TASMANIA

**TO SUPPORT THE IMPLEMENTATION OF THE NATIONAL
AQUACULTURE STRATEGY ENABLING OFF-SHORE
AQUACULTURE IN ADJOINING COMMONWEALTH WATERS**

PARTIES

The Commonwealth of Australia

And

Crown in Right of Tasmania (the Crown)

Hereinafter referred to individually as "Participant" or collectively as "participants",

RECITALS

RECOGNISING the desire to unlock the potential of the aquaculture industry,

CONSIDERING the *National Aquaculture Strategy 2017* (the "**Strategy**") development priorities supporting the growth of a strong, competitive, resilient, profitable and ecologically sustainable national aquaculture industry, specifically promoting an efficient regulatory framework modelled on established best practice that is transparent and removes unnecessary burden on business,

RECOGNISING the Priority Action in the **Strategy** to amend the Commonwealth *Fisheries Management Act 1991* to allow individual jurisdictions to extend their existing aquaculture regulations to cover adjoining Commonwealth Waters,

CONSIDERING the Tasmanian Government's commitment to the **Strategy** and to sustainable aquaculture, as well as the development of other marine industries,

RECOGNISING the Tasmania commitment for future expansion of salmonid aquaculture into oceanic waters, rather than estuarine water,

RECOGNISING the opportunities of growing the marine aquaculture industries in Tasmania, for example fin fish, seaweed and other species, through utilising Commonwealth waters adjoining Tasmanian State Waters,

AND RECOGNISING the desire by the Participants for a cooperative arrangement to enable and facilitate marine aquaculture industries in Commonwealth waters adjoining Tasmania State Waters, through development of appropriate arrangements focused on streamlined approvals processes,

THE PARTIES HAVE REACHED THE FOLLOWING UNDERSTANDING

1. OBJECTIVE

- 1.1 The objective of this Memorandum of Understanding ('MOU') is achieving the goals of the **Strategy** and supporting the growth of strong, competitive, resilient, profitable and ecologically sustainable aquaculture industries in Tasmania through aquaculture in Commonwealth waters adjoining Tasmania State Waters.

2. PURPOSE

- 2.1 The purpose of this MOU is to:
 - a) Provide a framework for mutual understanding between the Participants in the implementation of the **Strategy**; and
 - b) Provide for governance arrangements between the Participants aimed at developing, for consideration by respective Governments, an appropriate

policy framework for efficient and effective regulation and approvals processes enabling sustainable marine aquaculture in Commonwealth waters adjoining Tasmania State Waters.

3. STATUS OF THE MOU

- 3.1 The Participants agree that this MOU is not intended to create any legally binding partnership or any other agreement or arrangement between the Participants, nor are the provisions intended to give rise to legal rights, obligations or liabilities on the part of any Participant.
- 3.2 Nothing in this MOU creates or implies any obligation on the part of any of the Participants to enter into any contract, agreement, commitment or other arrangement whatsoever in relation to the subject matter of this MOU.

4. AREAS OF COOPERATION

- 4.1 The Participants will seek to cooperate to enable and facilitate marine aquaculture in Commonwealth waters adjoining Tasmanian State Waters through –
- 4.1.1 progressing, as a priority, work to facilitate a fisheries management arrangement under the Commonwealth *Fisheries Management Act 1991* and the Tasmanian *Living Marine Resources Management Act 1995* in suitable terms to enable research by the Blue Economy Cooperative Research Centre,
 - 4.1.2 consistent with the **Strategy**, working together to develop a policy framework and identify suitable legislative, regulatory and administrative arrangements for sustainable marine aquaculture in Commonwealth waters adjoining Tasmania State Waters,
 - 4.1.3 consistent with the **Strategy**, working together to facilitate future aquaculture industry development that realises value to, and benefits, the Tasmanian economy,
 - 4.1.4 making best endeavours to amend relevant State and Commonwealth legislation, as required, and
 - 4.1.5 seeking to implement arrangements by appropriate instruments including a further Memorandum of Understanding and/or a fisheries management arrangement under the Commonwealth *Fisheries Management Act 1991* and the Tasmanian *Living Marine Resources Management Act 1995*.

5. PUBLICITY

- 5.1 Neither Participant will make any press release or public statement concerning this MOU or details of activities to be undertaken under this MOU except:
- (i) with the prior written consent of the other Participant; or
 - (ii) to the extent required by law.

6. IMPLEMENTATION

- 6.1 The Participants will arrange meetings by mutual consent to review progress with this MOU.
- 6.2 The departments nominated by the Participants as responsible for overseeing the implementation of this MOU as follows:
- For the Commonwealth of Australia:
- The Department of Agriculture, Water and the Environment
- For the Crown in Right of Tasmania:
- The Department of Primary Industries, Parks, Water and Environment or such other person notified to the other Participant.
- 6.3 The Participants will work closely together during the term to facilitate achievement of the objective under this MOU.

7. CONFIDENTIAL INFORMATION

- 7.1 Subject to this clause 7, each Participant agrees not to disclose confidential information without the other Participant's prior written consent.
- 7.2 Nothing in clause 7.1 prevents:
- a) a Minister of the Australian Government or of the Tasmanian Government from publishing or disclosing confidential information if that Minister is required to disclose that confidential information to a House or Committee of the Commonwealth Parliament or of the Tasmanian Parliament in order to properly discharge that Minister's duties or responsibilities as a Minister of the Crown or the Commonwealth;
 - b) a Participant from publishing or disclosing the Confidential Information of that Participant;
 - c) a Participant from publishing or disclosing the confidential information of the other Participant to the extent that the publication or disclosure:
 - a. is required by law;
 - b. is made on a confidential basis to the professional advisers of such Participant for the purpose of obtaining professional advice in relation to this MOU or otherwise for the purpose of consulting such professional advisers.

8. DURATION AND TERMINATION

- 8.1 This MOU will come into effect on the date of signature by both Participants and will continue in operation until termination by either Participant giving one months' written notice to the other.

9. MISCELLANEOUS

9.1 No partnership or agency

- a) Nothing contained or implied in this MOU will:

- a. constitute, or be taken to constitute, a Participant to be the partner, agent or legal representative of the other Participant for any purpose;
 - b. create, or be taken to create, a partnership or joint venture; or
 - c. create, or be taken to create, an agency or trust arrangement.
- b) A Participant must not represent or hold itself out to be a partner, joint venturer, agent or representative of the other Participant.

9.2 Amendment

This MOU may only be amended or supplemented in writing signed by the Participants.

9.3 Disclosure

- a) Despite any confidentiality or intellectual property right subsisting in this MOU, a Participant may publish all or any part of this MOU.
- b) Nothing in this clause derogates from a Participant's obligations under the *Personal Information Protection Act 2004 (Tas)* or the *Privacy Act 1988 (Cth)*.

9.4 No interference with executive duties or powers

Nothing in this MOU is intended to prevent, is to taken to prevent, or prevents, the free exercise by the Governor of Tasmania, by any members of the Tasmanian Executive Council, or by an Minister of the Crown, or by a Minister or a representative of the Australian Government of any duties or authorities of his or her office.

9.5 Clauses 7 and 9 survive the termination or expiry of this MOU.

9.6 This MOU may be executed in counterparts.

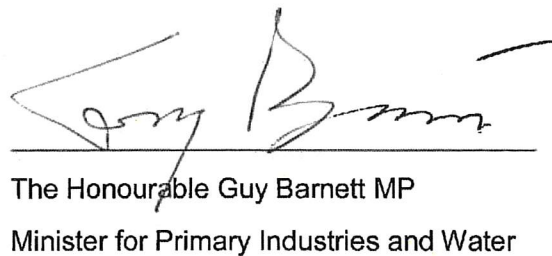
Executed by the Participants as a non-legally binding MOU on this 27 Day of September 2021.

**For
the Commonwealth of Australia**



Senator, the Honourable Jonathon Duniam
Assistant Minister for Forestry and Fisheries

**For and on behalf of the Crown in right
of Tasmania**



The Honourable Guy Barnett MP
Minister for Primary Industries and Water

Schedule 2 - Fisheries Arrangement

Arrangement between the Commonwealth and Tasmania in relation to marine farming research activities in the Australian Fishing Zone

Definitions

1. In this instrument:
 - a) **Commonwealth Act** means the *Fisheries Management Act 1991* (Cth).
 - b) **relevant waters** means waters on the seaward side of the coastal waters of Tasmania that are to be managed in accordance with this arrangement, being the area enclosed by:
 - NW corner: 145° 55' 11.86061"E 40° 55' 34.99345"S
 - NE corner: 145° 56' 46.03965"E 40° 55' 34.99345"SThe point due south of the NW corner that intersects the Tasmanian coastal waters boundary
the Tasmanian coastal waters boundary; and
the point due south of the NE corner that intersects with the Tasmanian coastal waters boundary.
 - c) **Tasmanian Act** means the *Living Marine Resources Management Act 1995* (Tas).

The Arrangement

2. This arrangement is entered into by the Commonwealth and Tasmania in accordance with s 72 of the Commonwealth Act and s 161 of the Tasmanian Act.
3. The Commonwealth and Tasmania intend that activities with respect to the marine farming of fish for research purposes carried out in relevant waters are to be managed in accordance with the laws of Tasmania.
4. This arrangement applies to the extent that the activities described in paragraph 3 amount to:
 - a) the marine farming of fish for research purposes in accordance with s 161(6) of the Tasmanian Act, and
 - b) a class of activities by way of fishing for the purpose of the Commonwealth Act, including:
 - (i) the taking of fish in relevant waters
 - (ii) any activities performed in relevant waters which could reasonably be expected to result in the taking of fish, or
 - (iii) any operations in relevant waters that are directly in support of, or in preparation for either of the activities described above at cl 4(b)(i) or cl 4(b)(ii).

Note: Section 72 of the Commonwealth Act allows the Commonwealth and Tasmania to enter into an arrangement in relation to the management of a 'fishery' within the meaning of s 4 of the Commonwealth Act. A 'fishery' is defined in the Commonwealth Act by reference to activities that amount to 'fishing', including the activities described above in clauses 4b)(i) to (iii).

Section 161(1) of the Tasmanian Act allows Tasmania to enter into an arrangement with the Commonwealth in relation to the management of a particular fishery within State waters. Section 161(6) of the Tasmanian Act expressly provides that the marine farming of fish for research purposes is a fishery to which an arrangement under s 161 may apply.

Severance

5. It is the intention of both the Commonwealth and Tasmania that the arrangement entered into in accordance with this instrument has effect only to the extent that it is supported by both the Commonwealth Act and the Tasmanian Act.
6. If any aspect of this arrangement is found to be invalid or unenforceable for any reason, it is the intention of both the Commonwealth and Tasmania that only the invalid or unenforceable aspect is to be of no effect and every other aspect of the arrangement is to continue to have effect according to its terms.

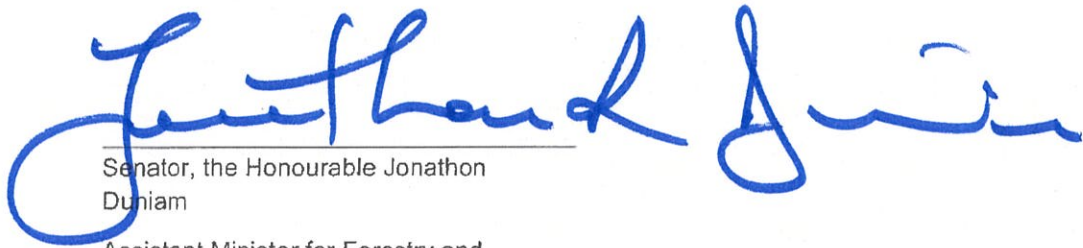
Termination of the arrangement

7. It is the intention of both the Commonwealth and Tasmania that this arrangement will be terminated in accordance with s 75 of the Commonwealth Act and s 161 of the Tasmanian Act.

Execution

8. This instrument is made by the Commonwealth and Tasmania by:

**SIGNED for and on behalf of the
Commonwealth of Australia**



Senator, the Honourable Jonathon
Duniam

Assistant Minister for Forestry and
Fisheries

Date 1 April 2022.

**SIGNED for and on behalf of the Crown
in right of Tasmania**

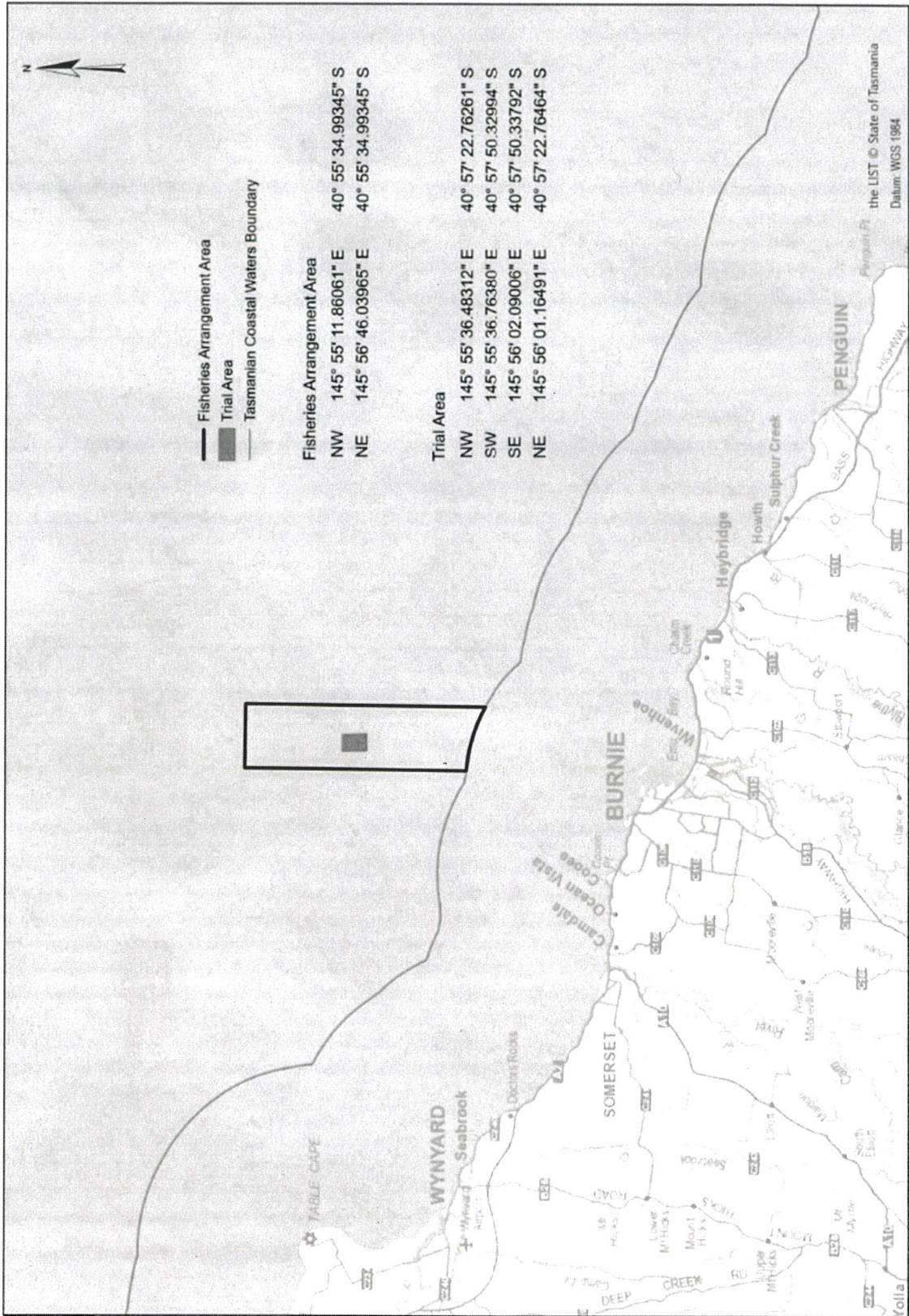


The Honourable Guy Barnett MP

Minister for Primary Industries and Water

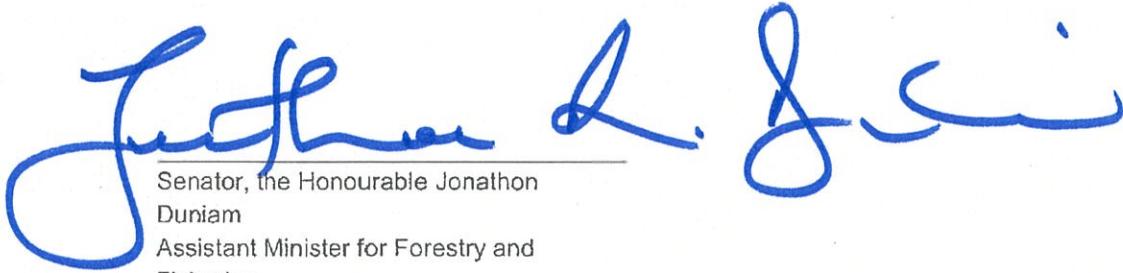
Date 1 April 2022

Schedule 3 – Trial Area



Signing page

SIGNED for and on behalf of the
Commonwealth of Australia



Handwritten signature in blue ink: Jonathon L. Duniam

Senator, the Honourable Jonathon
Duniam
Assistant Minister for Forestry and
Fisheries

Date 1 April 2022 .

SIGNED for and on behalf of the Crown
in right of Tasmania



Handwritten signature in blue ink: Guy Barnett

The Honourable Guy Barnett MP
Minister for Primary Industries and Water,

Date 1 April 2022 .