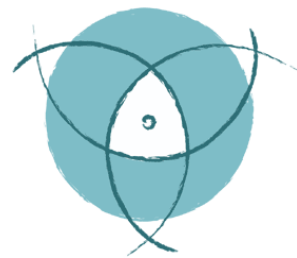


Guidelines for the  
Publication, Distribution and Assessment  
of Responsible Codes of Practice for the  
Victorian Fishing Industry

Prepared by the  
Fisheries Co-Management Council, Victoria



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## 1. Introduction

The future of the Victorian Fishing Industry is dependant on the participation of all stakeholders in its ecologically sustainable development. (It should be noted that ‘industry’ is defined as the whole of chain – from catching to retail and including government, recreational and community interest groups.)

This document is designed to assist stakeholders in the Fishing Industry in the development, publication, distribution and assessment of responsible Codes of Practice for use in all areas of Victoria’s fishing sector.

The Food and Agriculture Organisation of the United Nations (FAO) states that:

*‘Fisheries, including aquaculture, provide a vital source of food, employment, recreation, trade and economic well-being for people throughout the world. To ensure that these benefits are available for future generations, fishing activities must be conducted in a responsible manner. A promotional tool to achieve this imperative is the Code of Practice (CoP).*

*CoPs set out principles and standards of behaviour for actions responsible for ensuring the effective conservation, management and development of living aquatic resources. They respect the ecosystem and biodiversity and recognise the nutritional, economic, social, environmental and cultural importance of fisheries and the interests of all those concerned with the fishery sector.’*

(FAO, <http://www.fao.org/fi/agreem/codecond/codecon.asp>)

Australia’s Fisheries Research and Development Corporation (FRDC) describes CoPs as:

*“A statement of an industry’s or group’s commitment to conduct its activities or business in accordance with specified principles of good practice”.* (FRDC, <http://www.frdc.com.au>)

A code of practice has also been defined as:

*“an agreed set of activities, actions, technical requirements, responsibilities or responses to events or conditions that apply to a profession, trade or industry. These are often based on international or national standards. Often these codes of practice have been agreed by a professional body in an act of self-regulation, considered necessary to restrict entry into the profession and to ensure that general professional practice is conducted at the highest level of integrity and quality. Sometimes industrial or professional codes of practice are formalised into law, with particular practices described and strict requirements placed on employers and employees, and with penalties if not strictly enforced...”* (<https://www.docdownload.com.au/document/group.psp?group=human,13121>).

## 2. Fisheries Co-Management Council's Role

Codes of Practice (CoPs) can be used all along the 'water to waiter' chain in the Fishing Industry. Commonly, they are used as voluntary agreements where an industry sector agrees to abide by a particular Code. In this way, they are a very flexible tool and have significant benefits because they:

- are developed with significant and specific industry involvement;
- are more flexible than regulations – they can be readily amended; and
- provide a plain language description of roles, expectations and outcomes which can be easily understood by all parties.

For these reasons, CoPs are becoming an increasingly popular tool in the design of alternatives to prescriptive regulation. Generally, the implementation of a Code will contribute directly to the conservation of fish stocks and the protection of the aquatic environment for present and future generations of Victorians. Ultimately, CoPs should be recognised within appropriate Fisheries Management Plans.

CoPs are a voluntary tool available to industry to provide guidance to users for particular activities. They provide a mechanism for the implementation of self-management initiatives supported by the industry for the benefit of all stakeholders. CoPs should take into account the biological characteristics of the resources and their environment and the interests of consumers and other users. All those involved in a particular sector or activities are encouraged to apply relevant Codes.

The functions of the Fisheries Co-Management Council (FCC) are set down in Section 91 of the *Fisheries Act* 1995. Two of these functions, 91(fa) and 91(fb), relate to the preparation, publication and distribution of Codes of Practice. The Act states: - The functions of the Fisheries Co-Management Council are...

- S91(fa) To prepare, publicise and distribute codes of practice that provide guidance to the holders of fishery licenses or permits under this Act on best practice concerning any matter relevant to the holders of fishery licenses or permits; and
- S91 (fb) To publicise and distribute such codes of practice that have been prepared by a recognised peak body or a fishery committee.

The FCC is committed to the achievement of sustainability in marine and fresh water fisheries and the development of CoPs is an important step in the pursuit of this objective.

These guidelines provide details of a suggested process for the preparation of CoPs as well as guidance for their content, publication and distribution. Adherence to these guidelines should result in effective and responsible CoPs. Before publicising or distributing a CoP, FCC will need to be satisfied that the process outlined here has been followed.

When requesting FCC to publicise and distribute CoPs, the following must be advised:

- whether FCC input and guidance is required, (S91 fa), or,
- whether the FCC is to publicise/distribute the CoPs without FCC input or guidance (S91 fb). In this case, the FCC will require that a Peak Body or a Fishery Committee of FCC has been involved in the Code's development.

## 3. The Code of Practice

### 3.1 General

The FCC will not publish or distribute a CoP that has not had input or guidance from the FCC, or a FCC Fishery Committee or has not involved a recognised Peak Body. Where the proponents do not have a recognised Peak Body, or choose not to include the recognised Peak Body, the CoP must be prepared in partnership with the FCC.

### 3.2 Initiation

Ownership and planned development of CoPs by the relevant group/s is essential. Any proponent of a CoP should form a Code Development Committee (CDC) to initiate development of a CoP.

Ideally, the recognised Peak Body should be involved. However, if there is no Peak Body representative on the CDC the group can indicate their need and preferred method/lines of communication to the FCC.

All communication with the FCC must be in writing giving all the details of the CoP's background as well as proof of support for the CoP.

The Australian Competition & Consumer Commission's (ACCC) document "Guidelines for developing and endorsing voluntary industry codes" sets out principles and key indicators for CoPs ([www.accc.gov.au](http://www.accc.gov.au)).

CoPs are designed to benefit those who commit to following them – they are not an imposition, but the benefits of their recommended practices must be able to be demonstrated.

In accordance with the ACCC's guidelines, the CDC must:-

- clearly define the objectives that the code needs to achieve;
- identify the issues the code should address;
- reach a consensus amongst the stakeholders on issues to be addressed in the code;
- identify the benefits of this code to stakeholders;
- identify and articulate the rules necessary to achieve the objectives;
- identify the costs of administering the code;
- decide how this cost is going to be funded;
- identify the most effective/efficient process for promoting the code; and
- identify the resources available to develop an effective code.

On receipt of this information by FCC, it will be forwarded to the relevant expertise-based FCC Fishery Committee for their advice prior to the FCC considering the CoP.

The intention to implement a CoP should be outlined in the CoP Initiation Form (CoP1) – Appendix 1.

### **3.3 Research**

Currently, there are numerous CoPs available nationally and internationally that address similar issues to those facing the Victorian Fishing Industry. It is necessary when developing CoPs that the CDC reviews those available documents and, where appropriate, aligns with national and international best practice. Review of available CoPs may also provide an opportunity to adapt an existing CoP for use by the Victorian industry. The FCC Secretariat will be available to assist in this area.

### **3.4 Planning**

Once there is agreement on the need and scope of the CoP and the research has been undertaken, the CDC should form a sub-committee. This sub-committee would preferably include at least one member from the FCC or a FCC Fishery Committee (FCC membership is compulsory when the CoP is not prepared by a recognised Peak Body).

The sub-committee should scope the final project identifying all issues from the initial request plus additional matters raised through the process to date. All milestones, resources and support required must be determined at this stage.

Implementation planning should also be considered at this stage according to the specific objectives of the CoP. A checklist of consultation, feedback and redraft steps consistent with the milestones that the plan outlines will need to be produced.

This final plan and supporting paperwork should be presented to the FCC, which will determine how its obligations are to be met and advise the CDC sub-committee accordingly.

A CoP Planning Form has been developed to assist with this stage (CoP2) – Appendix 2.

### **3.5 Development**

The development of the CoP must include a defined consulting period (as specified in planning stage) with the group, association, sector and/or Peak Body that originally raised the concept.

The CoP should be completed in a Draft form so that it can be pilot tested before being finalised.

CoPs should be ‘outcome-based’ and must give clear and concise information on how to achieve the outcome, or advise where this information is available.

It is essential that the outcome can be demonstrated and reported.

### **3.6 Complaints**

The CoP must include provisions to allow for complaints to be lodged and handled by the CDC. Any complaint must be recorded efficiently, and retained by the CDC as all complaints must be considered when any review of the Code is undertaken.

Performance criteria for effective complaints handling should form part of the code (Refer Standards Australia AS 4269, [www.standards.com.au/catalogue/script/Details.asp?/Details.asp?DocN=stds000012657](http://www.standards.com.au/catalogue/script/Details.asp?/Details.asp?DocN=stds000012657)).

The CoP must also provide for a review mechanism when a member of the public or an industry member is dissatisfied with the outcome, or the way the complaint was dealt with, or the sanctions imposed.

In the event that complaints are not resolved by the CDC, then provision should be made for them to be lodged and resolved by an independent decision-maker appointed by the CDC.

### **3.7 Pilot Testing**

Once completed, the draft CoP needs to be pilot tested in order to prove that it is operational. The pilot testing is necessary for the CoP to prove its capability of meeting the requirements as originally conceived.

Data relating to cost/benefit analysis could be gathered at this point as this may then be used as a tool to promote the use of the CoP.

To assist the reporting of the pilot, please refer to the CoP Piloting Form (CoP3) – Appendix 3. This form provides a guide to reporting on the result of the pilot testing stage of a CoP implementation.

### **3.8 Review**

Following the pilot testing, a review should take place. This will be organised by the CDC sub-committee who will prepare a report on issues raised by the pilot. FCC will provide a proforma to assist in the review. Information that the CoP is achieving its goal, or that it requires amendment is important. After taking these issues into consideration the CoP can be finalised.

A CoP should have in its contents or in a supporting document, the circumstances that will trigger a review of the Code. The circumstances may include a significant incident, public pressure, a review or introduction of a management plan (e.g. could include fishery, catchment or marine park management plans), a complaint, or after a specified period.

### **3.9 Publishing, Promotion & Roll Out**

The CoP will not achieve its aims unless it is published in a manner which ensures it reaches its target audience.

The proponent of the CoP will be responsible for its publishing and promotional costs. This needs to be organised based on advice provided during the planning stage, and should be undertaken in a cost effective and efficient manner.

The CoP should also be promoted through Peak Bodies, FCC Committees, Fisheries Victoria and other relevant organisations.

The FCC will publicise and promote the CoP on its website.

### **3.10 Education**

One objective of CoPs should be to enhance through education and training programs, the knowledge and skills required of practitioners. Such programs should take into account agreed National Training Packages. Appropriate professional qualifications may also be identified.

It is essential that the CoP requires employees and agents to be instructed in the principles and procedures of the Code.

### 3.11 Conclusion

Provisions of CoPs must be consistent with the Federal Government's National Competition Policy.

Regular monitoring to ensure the desired outcomes are being achieved and that members complying with the CoP are not disadvantaged must be incorporated into the CoP.

## 4. References

ACCC

[www.accc.gov.au/content/item.phtml?itemId=387318&nodeId=file41e30bfdc4a6f&fn=Dr  
aftvoluntaryindustrycodeguidelinesOct.pdf](http://www.accc.gov.au/content/item.phtml?itemId=387318&nodeId=file41e30bfdc4a6f&fn=Dr%20aftvoluntaryindustrycodeguidelinesOct.pdf)

Comcare

[www.comcare.gov.au/ohs/2/code.html](http://www.comcare.gov.au/ohs/2/code.html)

FAO

[www.fao.org/fi/agreem/codecond/codecon.asp](http://www.fao.org/fi/agreem/codecond/codecon.asp)

The *Fisheries Act* 1995

FRDC

[www.frdc.com.au](http://www.frdc.com.au)

Standards Australia

[www.standards.com.au/catalogue/script/Details.asp?DocN=stds000012657](http://www.standards.com.au/catalogue/script/Details.asp?DocN=stds000012657)

## 5. Acronyms

ACCC	Australian Competition & Consumer Commission
CDC	Code Development Committee
CoP	Code of Practice
FAO	Food and Agriculture Organisation of the United Nations
FCC	Fisheries Co-Management Council
FRDC	Fisheries Research and Development Corporation

## 6. List of Annexes and Appendices

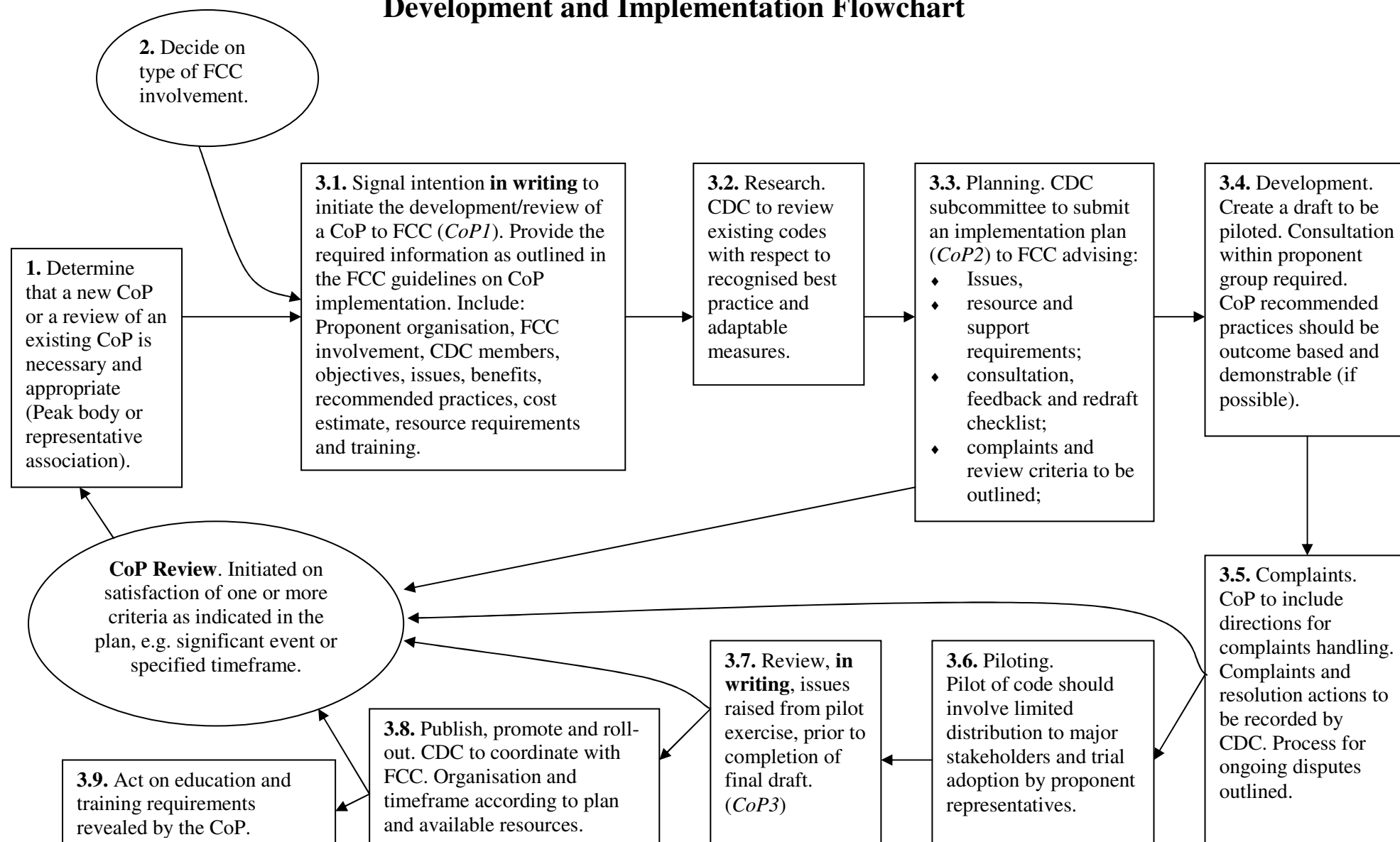
Annex A: Development and Implementation Flowchart

Appendix 1 CoP Initiation Form *CoP1*

Appendix 2 CoP Planning Form *CoP2*

Appendix 3 CoP Piloting Form *CoP3*

## Development and Implementation Flowchart



# Appendix 1

## CoP Initiation Form

## CoP1

Intention to implement a Code of Practice in accordance with Fisheries Co-Management Council Victoria (FCC) 'Guidelines for Responsible Victorian Fishing Industry Code of Practice'. *Refer Guidelines 3.2.*

**Who is the proponent?**

**Who are the nominated members of the code development committee (CDC)?**

**Who is the CDC contact?** (*Ensure full contact details listed*)

**What forum will be used to achieve consensus amongst stakeholders on issues to be addressed by the code?**

**Outline the objectives of the code and issues it will address.**

**Describe the anticipated rules or measures that the code will use to achieve desired outcomes?**

**Which stakeholders will benefit from the code?**

**What is the anticipated extent of promotion of the code?** (*Refer Guidelines 3.9, is it an internal industry document prescriptive for certain activities or a document to be distributed to the wider community?*)

**Define consultation arrangements/requirements** – *refer Guidelines 3.5*

**Provide an estimation of the costs associated with developing, implementing and administering the code.** (Proponent's input, in-kind contributions, implementation and ongoing resources required, cost of FCC commitment, printing, distribution and launch costs.)

**Describe how this cost is going to be funded** (e.g. Internal process of association, in-kind assistance and cooperation from Peak Body, seeking FCC support.)

**Identify the resources available to develop an effective code and identify research needs.** (Association finance and representative's time, Peak-Body support, grant possibilities, SeaNet involvement.)

**Identify training/education needs as a result of the CoP** – *refer Guidelines 3.10*

## Appendix 2

### CoP Planning Form

### CoP2

Planning for Code of Practice in accordance with Fisheries Co-Management Council Victoria (FCC) 'Guidelines for Responsible Victorian Fishing Industry Code of Practice'. *Refer Guidelines 3.4.*

Code of Practice

CDC Sub-committee

FCC representation

Detail scope of final project

List all resources and support required

Detail milestones

What consultation has taken place?

What additional consultation is to take place?

Have you ascertained all feedback required? If not who still needs to be contacted?

Is any re-drafting required of CoP? If so, provide details.

Final Plan prepared and forwarded to FCC? If so, provide details (including all supporting paperwork).

## Appendix 3

### CoP Pilot Testing Form

### CoP3

Report on Piloting a Code of Practice in accordance with Fisheries Co-Management Council Victoria (FCC) 'Guidelines for Responsible Victorian Fishing Industry Code of Practice'. Refer Guidelines 3.7.

*This form provides a guide to reporting on the results of the **pilot testing** stage of the implementation of a code of practice.*

1. **How was the code of practice piloted?** Provide all details including stakeholders that participated in the pilot. *For example: Several fishers (who, when and where?) took the draft to their vessels and incorporated the recommendations into their activities. Crew members were informed of the code and its rationale, and were familiarised with the content. Management agencies were incorporated through liaison with compliance officers etc.*
  
2. **What issues were raised regarding the content and recommendations contained in the code?** *For example, the inclusion of extra recommended practices may be suggested.*
  
3. **What issues may have implications for the process of implementing the code?** *For example, other stakeholders to be included in the distribution may be suggested.*
  
4. **As a result of the Pilot are there any changes that are required in the CoP? If so list them.**
  
5. **An assessment of the code's capacity to achieve the intended objectives should have been done through piloting? Please provide details.**
  
6. **Are there other comments you would like to make which are relevant to the CoP as a result of its piloting?**