
**DRAFT REPORT OF THE
FISHERIES STATUTORY MANAGEMENT
AUTHORITY ADVISORY COMMITTEE**

November 2003

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FOREWORD

In accordance with Government's pre-election commitment, an independent advisory Committee has been established to inquire into the desirability and feasibility of establishing a single statutory management authority to administer the State's fisheries. If a statutory authority is not recommended, the Committee is required to report on any changes that could be made to improve the existing Departmental model.

I have pleasure in releasing the Committee's draft report for public comment. The report follows a period for public submissions and meetings with key stakeholder groups and discussions with relevant organisations within Western Australia and a number of fisheries jurisdictions in Australia.

The recommendations within the draft report are those of the Committee and do not in any way reflect Government policy. Prior to Government receiving and considering a final report, it is important to obtain and consider the views of stakeholders and of the WA community. I have approved a public consultation period until 20 February 2004 for this to occur.

One key recommendation in the draft report is that a move from the cost recovery program to the introduction of a fisheries royalty, in conjunction with increased security of access rights, be considered for future implementation. I neither support nor oppose this recommendation at this time, and will await feedback from the public comment period and the Committee's final report. Subject to the Committee's final recommendation, this matter will require full and proper consideration by stakeholders and by Government.

I encourage you to provide comments on the Committee's draft report.



Kim Chance MLC
MINISTER FOR AGRICULTURE, FORESTRY AND FISHERIES

MAKING A SUBMISSION

Submissions on this draft report are welcome until **20 February 2004** and should be addressed to:

Executive Officer
Fisheries Statutory Management Authority Advisory Committee
Locked Bag 39
Cloisters Square Post Office
PERTH WA 6850

or by email to: hbrayford@fish.wa.gov.au.

When making a submission, please reference the particular recommendation or section of the report you wish to comment on.

Further copies of the report are available from the Department of Fisheries or from its website www.fish.wa.gov.au. For further information, please contact the Committee Executive Officer on (08) 9482 7355.

1 INTRODUCTION

1.1 Background

In October 2002, the Hon Kim Chance MLC, Minister for Agriculture, Forestry and Fisheries announced an inquiry into the feasibility and desirability of establishing a single statutory management authority (SMA) to administer Western Australia's fisheries. This was to give effect to a pre-election commitment to "proceed with the next logical stage of inquiry" into the establishment of a Western Australian SMA to administer the State's commercial fisheries. An independent advisory committee (the Committee) was appointed to conduct the inquiry.

Members appointed to the Committee were -

Mr JM Berinson (Chairman)
Mr M Jorgensen
Mr Z Lendich

In the event that the Committee did not recommend a fisheries SMA it was required to report on any changes that could be made to improve the existing Departmental model.

2 TERMS OF REFERENCE

The terms of reference for the inquiry, as established by the Minister, are set out below.

1. To examine and report on the desirability and feasibility (including advantages and disadvantages) of establishing a WA Statutory Management Authority to administer the State's commercial and recreational fisheries, pearling and aquaculture sector, and protection of fish and fish habitats ("the State's Fisheries") taking into particular account the -
 - efficient and effective delivery of fisheries management
 - implications for the role of the Minister, Government and key stakeholders
 - the direction of integrated fisheries management
 - options for funding and revenue raising
 - possibility of administering the state's commercial fisheries only under a Statutory Management Authority
 - current Western Australian Government policy on statutory authorities
 - delivery of services to other crown Agencies, either Commonwealth or State.
2. If a Statutory Management Authority was to be established for the administration of the State's Fisheries to report on the appropriate structure, role, functions, legislative framework, accountability processes, performance measures and involvement of stakeholders.
3. If a Statutory Management Authority was not to be established for the administration of the State's Fisheries to report on any changes that could be made to improve the existing Departmental structure, role, functions, legislation, accountability processes, performance measures and involvement of stakeholders taking into account any recommendations arising from the current Government's Review of the Effective Delivery of Government Priorities.

Preliminary comment

1. Scope of the inquiry

The Committee has approached the draft report on the understanding that the primary point of inquiry was whether or not to establish an SMA. The Committee's comments with respect to possible improvements to the existing Departmental model are based on, and limited to, issues which were raised in the course of its inquiry, and are not in the nature of a comprehensive functional or performance review.

2. Period of transition

The fisheries sector is in a period of transition as demonstrated by the large number of reports and reviews which preceded the inquiry and those which have been

commissioned or completed since the inquiry commenced. These include, but are not limited to-

- Machinery of Government Taskforce Report
- Review of Effective Delivery of Government Priorities (Functional Review)
- Integrated Fisheries Management Review
- Aquaculture Development Plan and Legislative Review
- Review of Boards and Committees within the Fisheries Portfolio
- Review of Management and Ministerial Advisory Committee guidelines
- Aboriginal Fishing Strategy
- Review of the commercial “wetline” sector
- Policy for the Implementation of Ecologically Sustainable Development (ESD) for Fisheries and Aquaculture within Western Australia
- Legal analysis project – “The Nature and Extent of Rights to Fish in WA: Possible Applications to Management and Allocation”
- Review of Development and Better Interest Fund guidelines

The report on Integrated Fisheries Management (IFM), which was released for public comment in December 2002, is of particular significance¹. Integrated management will involve explicit allocations to user groups and a long-term shift in the management of fisheries to ensure sustainability. While a final Government position on the report has not been announced, the Minister has indicated his agreement with its recommended basic objectives. The Committee has found widespread support for that position and has proceeded on the basis that IFM will be a key element of future fisheries management.

The Committee also notes that aquaculture is currently the subject of a separate review which is intended to culminate in an industry development plan. Given the distinctive nature of aquaculture and the advanced stage of its review, the Committee agrees with the view of the Aquaculture Council of Western Australia (ACWA) that any comprehensive attention to this industry should be on the basis of the development plan when available.

¹ Report to the Minister for Agriculture, Forestry and Fisheries by the Integrated Fisheries Management Review Committee, (2002), Fisheries Management Paper No. 165, Department of Fisheries

3 SUMMARY OF RECOMMENDATIONS

1. That a statutory management authority not be established to administer the State's fisheries on either a broad basis or in the cost recovery fisheries only.
2. That a move from the cost recovery program to the introduction of a fisheries royalty, in conjunction with increased security of access rights, be considered for future implementation.
3. That, to assist consideration of a fisheries royalty, an expert panel be established to advise on its possible form and implementation.
4. That the existing Ministerial/Management Advisory Committee model be retained as an advisory and consultative mechanism.
5. That membership of Ministerial/Management Advisory Committees be reviewed on a case by case basis, with a view to an improved input, as appropriate, on ecological, social and economic issues.
6. That an expertise based WA Fisheries Advisory Board be established to advise the Minister on strategic fisheries and marine management issues.
7. That a strategic direction be established for all fisheries encompassing a statutory Management Plan and a strategic operating plan.
8. That strategic operating plans be developed for all commercial fisheries within two years, and be reviewed at least every two years thereafter.
9. That strategic operating plans be developed for all other fisheries within five years, and be reviewed at least every two years thereafter.
10. That the development and review of strategic operating plans be conducted by the Department of Fisheries in consultation with all stakeholders (including Ministerial/Management Advisory Committees).
11. That an independent audit process be established to validate the methodology, accuracy and interpretation of key research outcomes particularly biomass estimations and recommendations on yield.
12. That the Department of Fisheries, in conjunction with the WA Fisheries Advisory Board (if established), develop a mechanism to collect, analyse and consider relevant social and economic information for key fisheries and projects.

13. That the proposed WA Fisheries Advisory Board review and advise on performance measures to demonstrate efficient and effective management of the State's fisheries resources.
14. That an independent review be conducted to identify opportunities for improved coordination and integration of marine management in WA.
15. That the Department of Fisheries be retained as a stand-alone agency.

4 OVERVIEW OF FISHERIES IN WA

4.1 Size and Value

Western Australia's commercial and recreational fisheries resources, including aquaculture, contribute significantly to the State's economy in terms of domestic economic activity and export earnings.

In 2001-02, the gross value of production (GVP) of commercial fisheries, including aquaculture, was estimated at \$615 million or approximately 25% of the value of all Australian fisheries². Fisheries exports in 2001-02 were valued at \$608 million with the top key markets being Japan, USA, China/Hong Kong and Taiwan³.

The largest sector of the industry, western rock lobster fishery, has an annual average export value of \$350 million. This industry is also the largest fishery in Australia. The pearl industry is valued at around \$150-200 million annually.

Figure 1⁴ shows the value of Western Australia's fisheries and aquaculture production relative to other States and the Commonwealth. Table 1⁵ shows estimated value of production for key species in 2001-02.

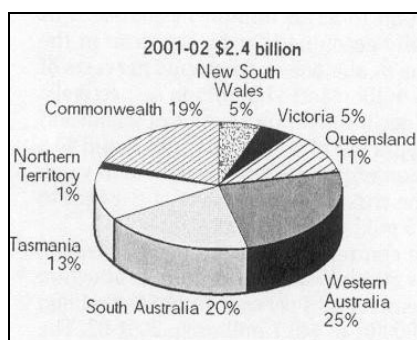


Figure 1: State shares of value of fisheries production

Key Species	Value \$'000
Rock Lobster	305 267
Pearling	175 000
Prawns	46 380
Finfish	16 389
Abalone	14 599
Scallops	6 574
Crabs	6 380

Table 1: Estimated value of key species 2001-02

Commercial fisheries in Western Australia employ the direct equivalent of about 4300 people⁶ with an estimated further 8000 jobs in associated industries such as ship building. Using a multiplier of about 2, the estimated aggregate impact of fishing on the State's economy is over \$1.2 billion. The industry is a key driver in the development of regional WA with many of the major fisheries such as rock lobster and prawns located outside of the metropolitan area.

² ABARE. Australian Fisheries Statistics. 2002

³ Department of Agriculture, Western Australia's Agricultural, Food & Fisheries Industries. 2001-2002

⁴ ABARE. Australian Fisheries Statistics. 2002

⁵ ABARE. Australian Fisheries Statistics. 2002

⁶ From WAFIC submission

Aquaculture is a relatively new industry in Western Australia. In recent years, the industry has been growing by about 25 per cent annually. During 2000-01, the industry value (excluding pearling) was in the order of \$6.8 million⁷. Government has invested significantly in aquaculture development which has seen commercial and pilot development in mussels, trout, freshwater crustaceans, finfish, abalone, prawns and pearl oysters. The State also has a well-developed industry for the production of algae for beta carotene for the food industry.

The value of recreational fishing and aquatic eco-tourism, while not as easily quantified, is estimated to be in the order of \$570 million. Since 1987 participation in recreational fishing has more than doubled from 284,000 people to about 585,000 people a year⁸. It is estimated that the recreational fishing sector creates up to 11,000 direct and indirect jobs with particular importance in regional centres. Key recreational species include rock lobster, abalone, marron, crabs, and finfish species such as herring and whiting.⁹

Aside from specific sectors, the Department of Fisheries (the Department) also has a direct and important role in the protection of fish habitats to ensure sustainable management of the State's marine, estuarine and riverine ecosystems. This work is delivered through a specific program and requires on-going cooperation and liaison with a range of other agencies and stakeholder groups. Much of the work is focussed in areas of marine planning, minimising the environmental effects of fishing and aquaculture and managing introduced marine species.

The Department also provides a service delivery role to external organisations including the Australian Fisheries Management Authority (AFMA), the Commonwealth Department of Transport and Regional Services and the State Department of Planning and Infrastructure.

4.2 Funding Arrangements

The Department's main sources of funding, other than Government, are cost recovered funds from the commercial fisheries and pearling sectors, various user fees and charges, research grants and contractual arrangements with the Commonwealth for the provision of various services.

Licensees operating in the six largest managed commercial fisheries [West Coast Rock Lobster, Shark Bay Prawns, Shark Bay Scallops, Exmouth Gulf Prawns, Abalone, Pearl Oyster] pay the full costs of management for their respective fisheries. Partial cost recovery applies to the remaining managed fisheries based on 2.852% of the gross value of production.

Licensees in managed fisheries also pay a Development and Better Interest (DBI) fee based on the percentage of the gross value of production for their respective fisheries.

⁷ Excludes algae production for betacarotene and hatchery production. Some data not available due to confidentiality restrictions

⁸ State of the Fisheries 2001/02

⁹ Department of Fisheries. Fisheries Statutory Management Authority Inquiry Background Paper. Fisheries Management Paper No. 166. February 2003

The DBI fee represents a return to Government, as a representative of the community, for use by the Minister on those items which are in the best interests of fisheries and fish habitat management.

Commercial operators in fisheries where there are no formal management plans do not contribute to the costs of management although they are subject to administrative fees and charges and, more recently, to a Fishing Boat Licence fee. These fisheries over time will be moved to formal management and will be subject to managed fishery fees accordingly.

Recreational fishing, aquaculture management and development and fish and fish habitat protection are largely funded through Government consolidated funds although the recreational fishing, aquaculture and fishing tour sector are subject to a user contribution through licence fees and administrative fees and charges.¹⁰

4.3 Structural Arrangements

Fisheries in Western Australia are administered by a stand-alone Government Department – the Department of Fisheries. The Department has responsibility for all fisheries management functions associated with policy, research and compliance and education extending across four program areas – commercial fisheries, recreational fisheries, pearling and aquaculture and fish habitat protection.

In recent times there has been a trend for smaller fisheries agencies around Australia to be absorbed into larger Departments, aligned principally with broader primary industries and/or conservation portfolios. NSW Fisheries, an organisation comparable to WA in size, has remained as a stand-alone agency. AFMA operates as a stand-alone statutory authority responsible for Commonwealth fisheries.

In many states and the Commonwealth, various functions are undertaken by other agencies or service providers. By way of example, fisheries compliance in the Northern Territory is undertaken by the Marine and Fisheries Enforcement Unit of the Northern Territory Police and, in the Commonwealth, AFMA outsources fisheries compliance and research to a variety of agencies.

¹⁰ Department of Fisheries. Fisheries Statutory Management Authority Inquiry Background Paper. Fisheries Management Paper No. 166. February 2003

5 INQUIRY PROCESS

The Committee called for written submissions in March 2003. In addition to 48 direct invitations, advertisements were placed in the *West Australian* and in regional newspapers. A comprehensive background paper prepared by the Department was made available to all interested parties. 15 written submissions were received.

During the submission period, the Committee met with key stakeholder groups – the Department, the Western Australian Fishing Industry Council (WAFIC), Recfishwest and the Conservation Council of WA. The meetings provided an opportunity for stakeholders to discuss key issues with the Committee prior to the finalisation of submissions, and for the Committee to gain a general understanding of stakeholder views.

The Committee also met with representatives of the Department of the Premier and Cabinet, principally in regard to Machinery of Government matters, and the Forest Products Commission in respect of some common issues between the forestry and fisheries sectors. Discussions were also held with representatives of the Queensland Fisheries Service (within the Queensland Department of Primary Industries), Fisheries Victoria and AFMA with respect to peak advisory models.

This draft report reflects the Committee's views based on its consideration of the written submissions and other relevant consultations and reference material.

A listing of submissions and main reference material is provided at Appendix 1.

6 A STATUTORY MANAGEMENT AUTHORITY

The Committee is required to examine and report on the desirability and feasibility of establishing an SMA to administer the State's fisheries taking into account a range of matters set out in the terms of reference. The Committee has been greatly assisted by the written submissions received, and its discussions with stakeholders.

6.1 Australian Management Models

6.1.1 *Commonwealth*

Since 1992, day-to-day management of Commonwealth fisheries has been the responsibility of AFMA, the only fisheries statutory authority in Australia.

6.1.2 *The States and Northern Territory*

The fisheries in all other Australian jurisdictions are managed within a departmental framework. NSW and WA have stand-alone departments, while fisheries in other States and the Northern Territory are managed under broader based departmental arrangements.

6.1.3 *Queensland, Tasmania and Victoria*

The Committee has noted particular relevant factors in the experience of these States.

Queensland

Fisheries in Queensland was managed by an SMA, the Queensland Fisheries Management Authority (QFMA) from 1982-2000. In the later years of this period, responsibility for fisheries was shared by the Department of Primary Industries (Fisheries Group) in respect of research and development, habitat management, compliance activities and aquaculture.

From July 2000 the SMA was disbanded and all fisheries-related functions were transferred to the Queensland Department of Primary Industries.

Tasmania

In the 1970's an SMA, the Tasmanian Fisheries Development Authority, was established to manage Tasmania's marine fisheries. This was abandoned after several years.

A second SMA, the Tasmanian Inland Fisheries Commission, functioned for over 100 years but was abolished in 2000 and the former Commissioner's powers and

responsibilities were vested in the Director of the Inland Fisheries Service, a corporate sole.¹¹

Victoria

As part of its first report following an “Inquiry into Fisheries Management,” the Environment and Natural Resources Committee of the Victorian Parliament recommended in December 2001 against the establishment of an SMA to manage Victoria’s fisheries.¹²

6.2 Submissions

WAFIC provided a comprehensive submission, a major part of which was devoted to its advocacy of an SMA for the six fully cost recovered fisheries (CR fisheries SMA). While WAFIC also argued the merits of a comprehensive SMA model – which would manage all of the State’s commercial and recreational fisheries, pearling and aquaculture sectors and protection of fish habitats – this was not seriously pursued as a current practical possibility. In the absence of any other submission or evidence in support of a broad based model, and significant considerations to the contrary, the Committee’s further discussion of the SMA issue refers to the question of a CR fisheries SMA only.

The Western Rock Lobster Council, an affiliate of WAFIC, endorsed the WAFIC submission in all respects but without additional substantive comment. A submission by the Aquaculture Council of Western Australia also offered no substantive comment on the SMA issue.

A submission by the WA Department of Fisheries did not present a position for or against an SMA but outlined the Department’s view of relevant factors requiring consideration. A submission by AFMA was also limited to an outline of key elements underlying its own SMA approach to fisheries management.

All other submissions which took a clear position one way or the other opposed an SMA, on various grounds and with differing degrees of negativity. Opponents included Recfishwest, the Conservation Council of WA, the WA Game Fishing Association, the Department of the Premier and Cabinet and the Department of Treasury and Finance.

6.3 The MOG Tests

The place of SMAs in the State’s administrative framework was the subject of a review and report in 2001 by the government’s Machinery of Government Taskforce

¹¹ A corporation sole consists of only one member at a time in succession.

¹² Environment and Natural Resources Committee. Inquiry into Fisheries Management First Report: Co-management. December 2001

(MOG).¹³ The basic recommendation arising from that process – since adopted as government policy – states that:

“A statutory authority should be established only if its proposed functions cannot be performed by a department or it would be inappropriate for them to be performed by a department.”

The Committee is not necessarily bound by this statement of government policy, but itself agrees with the MOG recommendation. The following discussion proceeds on that basis.

The proposal for a fisheries SMA is clearly inconsistent with the first test provided by the MOG recommendation, namely, that an SMA should be established only if its proposed functions cannot be performed by a department. Both history and current practice in seven of the eight Australian jurisdictions make that much self-evident.

The second MOG test asks whether “proposed functions (in this case fisheries management) would be inappropriate ... to be performed by a department.” The MOG Report suggested three types of activity which might attract the application of this criterion but, in the view of the Committee, none assists the case for a fisheries SMA. The WAFIC submission does not suggest otherwise.

The WAFIC submission, however, does directly address the MOG-based State Government policy on statutory authorities, and suggests that its proposed SMA model is consistent with that policy. WAFIC’s supporting argument is as follows:

“Under the proposed model, the SMA would be fully funded by the served industry. Currently it is unusual for a Department to be employed to manage an activity where 100 per cent of the operating costs are externally provided by industry. Thus, it would seem reasonable for the delegation of accountability for expenditure from the Minister to an SMA to occur when the total funding of a government regulated activity is provided by the served industry ... ”

“The establishment of a fully industry-funded SMA would also be consistent with the current State Government policy on Statutory Authorities ... ”

“The delegation of expenditure accountabilities to industry for management of the commercial fisheries cannot occur in a Westminster Departmental form of governance. The establishment of a 100 per cent industry-funded SMA would be consistent with the above (MOG-based) policy as the Department cannot delegate accountability to external stakeholders and hence the government cannot progress its declared intent to drive towards self management within a Departmental governance structure.”

The Committee is unable to accept this line of argument. It amounts to a proposition, that **if** an SMA is established and **if** the accountability for its expenditure is delegated by the Minister in a particular way, then the MOG test of inappropriateness of

¹³ Ministry of the Premier and Cabinet, (2001), Government Structures for Better Results: The Report of the Taskforce Established to Review the Machinery of Western Australia’s Government. The Machinery of Government Taskforce.

departmental management would be met. That, however, ignores the function of the MOG test which is to help determine whether an SMA should be established in the first place. In the postulated set of circumstances the establishment of an SMA is assumed from the outset, which far from meeting the MOG test, ignores it.

The Committee notes two other difficulties which arise from the quoted passage in the WAFIC submission. In the first place, there is an unexplained move from the suggestion that accountability for expenditure should be delegated to “an SMA,” to a discussion of such a delegation to “industry.” A basis for the implied equivalence between the two is not provided.

A second question arises from the support sought to be gained for this part of the WAFIC submission, by reference to the “..... government declared intent to drive towards industry self-management.” The Committee was unable to find any evidence of a State Government commitment to move towards industry self-management although it noted the Government’s pre-election statement that Labor will “work towards the development of processes to permit a greater degree of responsibility and self-management by both the commercial and recreational fishing sectors by the establishment of a clearly defined share of each fishery’s TAC”.

If self-management is the end aim, it is difficult to understand the need for an SMA to assist that process. At a more fundamental level, the Committee also has difficulty in seeing industry self-management as a realistic option into the future, as fundamental changes to industry regulation, such as IFM, are implemented. Having received no submissions on the point, the Committee makes no substantive comment on this question.

6.4 Recent Developments

As previously indicated, the possibility of establishing a fisheries SMA was considered in 1994 and again in 1998. The proposal was rejected on both occasions and the management of fisheries within a departmental framework was confirmed. This invites the question as to whether fisheries-related developments since 1998 provide grounds for an SMA which did not exist at the time of the previous reviews. Alternatively, perhaps, whether experience has indicated that the earlier decisions were mistaken.

The Committee approaches this question on two levels. It here considers broad developments which are seen as relevant to the SMA/departmental alternatives. Later sections will consider stakeholder comments on specific aspects of departmental management, and in particular, the effectiveness of management changes in the 1990’s.

As emerged from the Committee’s meetings with stakeholders, and in subsequent written submissions, any discussion of fisheries management involves repeated reference to the moves to IFM, ESD and Ecosystem-based Management (EBM).

The Department’s policy on the implementation of ESD for fisheries was issued in March 2002, and the IFM Report was issued in November 2002. Both papers, as well

as EBM, are predicated on a high degree of integration and co-ordination in the management of all fisheries-related issues, including sustainability of the resource, allocation between and within competing sectors, protection of the habitat and the incorporation of economic, environmental and social considerations in the decision making process. These new and fundamental policy approaches can be expected to raise complex and difficult issues in terms of both policy settings and technical implementation. The resolution of these issues is unlikely to be assisted – indeed much more likely to be impeded - by the fragmentation of fisheries management which a separation of the six major fisheries into an SMA would involve.

6.5 The WAFIC Case for an SMA

The WAFIC submission was the only case put to the Committee in favour of a fisheries SMA. As previously indicated, both the submission and this report concentrate on the WAFIC proposal for an SMA limited to the CR fisheries only.

In an introductory comment, “WAFIC recognises that the Department is one of the leading resource management agencies ... (and) is generally recognised as being well managed, not just by Australian observers, but internationally as well.” The submission proceeds, however, to argue that “the ability for the Department to further improve fisheries management is constrained by the current institutional framework.” A number of “current perceived and real problems in the management of the fisheries” are then detailed. These are relevant, in varying degrees, to WAFIC’s SMA proposal and may be summarised as follows:

- There is a lack of commercial incentives in the Department. This arises primarily from the fact that the cost of management of the cost recovered fisheries is fully recovered from industry, with minimal industry influence over the cost of services required. As a result, there are no incentives for the Department to reduce costs.
- The detrimental effect of the lack of commercial incentives is compounded by the fact that there are no legislative or other processes to require the Department to operate in the most cost effective manner.
- Without these processes in place the Department is operating with higher than necessary costs.
- This leads in turn to the requirement for industry to pay excessive (cost recovery) fees.
- “Reasons why the Department is not motivated to reduce costs” include the following additional matters:
 - (i) The legislation does not clearly separate purchaser and provider activities. In respect of research and compliance services, for example, “the Department (as both “purchaser” and “provider”) is the sole arbiter of the price, quality and quantity of these services.”

- (ii) The Department is constrained by its obligation to comply with the *Public Sector Management Act 1994* with regard, in particular, to cross-government employment practices.
- (iii) The Department is subject to political and whole of government policy constraints, for example, the “Buy Local” policy which can lead to preference being given to more costly local products.
- There are no procedures for industry to contribute to the Department’s purchasing decision making process.
- These, and other issues, “stem from a distortion of the ‘user pays, user says’ philosophy.”
- The Department has not implemented the funder-purchaser-provider model to fisheries management “as promised when cost recovery was initiated.”
- Management Plans are inadequate. This contributes to uncertainty in important areas, including in particular, the security which license holders have over access rights.
- The underperformance of Ministerial/Management Advisory Committees (MACs) as consultative bodies (under the SMA proposal, Advisory Committees would be appointed by, and report to, the SMA).

Against the background of these suggested drawbacks of the departmental framework of fisheries management, the WAFIC submission proposes a CR fisheries SMA headed by an independent expertise-based Board (of one executive and seven non-executive directors), and with approximately 20 staff. Fundamental aspects of the operation of this SMA would include the following:

- “The objectives of the SMA should be similar to those guiding AFMA.”
- “The SMA would be responsible for managing the funding and control of all management services” for the CR fisheries.
- The SMA would be required to comply with Ministerial directives in respect of resource allocation and government policy on ESD.
- “The SMA would be expected to deliver the same outcomes for government in the designated fisheries as are currently delivered by the Department, albeit in a more cost effective manner.”
- “It is highly likely that the Department would be the provider (to the SMA) of (required) services, but delivery would be in accord with the SMA’s requirements and not those of the Department.”
- The operation of the SMA would be fully funded by the “served” industry.

The advantages attributed by WAFIC to the SMA model in meeting the suggested problems of the Departmental framework, are indicated both explicitly and by reference to the perceived benefits of the AFMA model. The suggested advantages include the following:

- “An independent statutory body that operates ... at ‘arm’s length’ from government.”
- “Commercial incentives – the proposed model ... would provide administrative flexibility to management.”
- Operating at arm’s length from government would assist in creating a more commercial culture, with resulting benefits in the delivery of cost effective, efficient and accountable fisheries management.
- “Improved effectiveness of the Ministerial Advisory Committees.”
- “The introduction of Strategic Operating Plans.”
- “Improved transparency in cost allocation.”
- “Full implementation of the funder-purchaser-provider framework.”
- “Adherence to the “user pays – user says” principle.”

The suggested benefits of a CR fisheries SMA raise questions in respect of both conceptual and practical issues, and a number were specifically addressed in submissions which opposed a fisheries SMA.

“The SMA would operate at arm’s length from government.”

As a practical matter, an SMA’s independence in day to day management would be significantly impinged upon by its obligation to comply with IFM and ESD standards imposed by other agencies. On the advice provided to the Committee by the Department of the Premier and Cabinet, and contrary to the apparent assumption in the WAFIC submission, it would also be subject to cross-government policies in respect of, for example, employment practices and Buy Local requirements.

More fundamental is a question of principle. Fish resources are a common property resource, meaning that they are “owned” by, and are to be sustained, utilised and managed for the benefit of the public. While engaged in the regulation of a commercial enterprise, fisheries management is not itself a commercial activity (which might otherwise meet one of the MOG criteria for an SMA). Fisheries management must also contend with complex and contentious issues of balance between competing interests, and these, in turn, require important value judgements. Given that the primary obligation of fisheries management is to serve the public interest, it is not at all clear - in the absence of such special circumstances as outlined by MOG – that this is best done by keeping the most direct and most accountable representative of the public (that is, the government) at arm’s length.

Commercial incentives and the potential for cost reduction.

The WAFIC submission in this respect is that the Department has no incentive to reduce costs because its costs of managing the six major fisheries are fully recouped from industry. This is said to result in excessive costs, and thereby to the imposition of excessive cost recovery fees on industry. Conversely, a CR fisheries SMA would have the incentive and the commercial culture to reduce costs, thereby directly reducing industry costs to the same extent.

This argument also gives rise to a number of questions. Firstly, the WAFIC submission accepts that full cost recovery (including the new administrative costs of the Authority itself) should continue to apply under SMA management. The unstated proposition therefore is, that while cost recovery is a disincentive to cost reduction efforts by the Department, it will not act as a disincentive in an SMA. The difference, apparently, is to be found in the “more commercial culture” which can be expected in the latter.

A generalisation of this kind really comes down to a subjective expression of confidence that the individuals appointed to the SMA Board will be better at cutting costs – while maintaining all necessary standards – than the current departmental management. That might turn out to be the case, but the possibility is surely open that it may well *not* be the case. Moreover, there are other special factors to be considered. In particular, an SMA would be a part only of a large, complex and rapidly changing system, and while established to manage an apparently discrete area of fishing activity it would be required from the outset to interact, and perhaps even cope with “demarcation disputes”, with other government agencies. That would not be an environment in which worthwhile cost savings can be assumed.

A second question: Where are savings likely to be achievable. Reference has already been made to the incorrect assumption that an SMA would be free from the restraints of various whole-of-government policies. Another assumption in the WAFIC submission is to the effect that, while “it is likely that the bulk of the (SMA’s required) services would continue to be provided by the Department (because of its “expertise, scale and therefore competitive advantage”) “the terms and conditions of contract would be quite different to the current scenario.”

But would it cost less?

The submission acknowledges that “the extent of cost efficiencies that may be achieved ... is unknown due to the absence of comparable benchmarks.” Significantly, no estimate is attempted either, of the cost effects on the Ministry of the fragmentation of departmental services. This leaves open the prospect that savings - if any - in the management of the CR fisheries by an SMA could be balanced, or even more than balanced, by increases in the other, that is, taxpayer funded areas.

The AFMA model

The WAFIC submission refers to AFMA as a “relevant” and “useful”... example of a SMA responsible for the management of commercial fisheries.” It describes the operation of AFMA as “successful.”

Different views were put to the Committee as follows:

- (i) All submissions, other than WAFIC’s, which referred to AFMA, were to the effect that there were significant differences between AFMA’s operations and the scope of the CR fisheries SMA as proposed by WAFIC. AFMA management, for example, is responsible for the management of all aspects of Commonwealth fisheries and is not restricted to commercial fisheries, let alone cost recovered commercial fisheries. It is also involved, distinctively, in international activities. Any relevance of the AFMA model to the WAFIC proposal, it was submitted, is therefore doubtful.
- (ii) In both written submissions and discussion, Recfishwest, the Conservation Council of WA and the WA Game Fishing Association were critical of AFMA, and opposed the adoption of its model on the perceived shortcomings of its performance. The Committee offers no opinion on the opposing views in this respect.

6.6 Departmental alternatives

The Recfishwest submission included the following observation:

“Recfishwest has objectively examined the case for a statutory authority and has concluded that the suggested benefits can all be achieved through a department.”

To the same effect is the following conclusion of the Victorian Parliamentary Inquiry into a Fisheries Statutory Management Authority.

“There are no issues raised with the Committee that could not be dealt with by Victoria’s (department based) fisheries management structures ... albeit that modifications to these existing structures may assist their effectiveness to deal with such issues.”

Having considered all issues raised by WAFIC and other stakeholders and observers, the Committee agrees with the Recfishwest view.

6.7 The narrow objective of the SMA proposal

As the Committee examined each of the WAFIC submission’s “perceived and real problems in the management of fisheries” it was apparent that arguments for an SMA were all directed at the narrow and limited objective of reducing the cost of managing

the CR fisheries so as to reduce the fees payable by industry. Indeed, this was expressly indicated in the submission itself with the comment that:

“The ultimate objective (of the proposed SMA) ... is for efficient and cost effective management **to minimise costs payable by industry.**” (emphasis added).

As previously noted, it is not at all certain that savings to industry would in fact be achieved by the move to an SMA or, if achieved, to what extent. Importantly, there has been no suggestion of a *public* benefit from the exercise. On the other hand, it is certain that a move to a CR fisheries SMA would not be cost free to government, either in cash terms or in respect of considerable disruption to a system already under pressure to absorb IFM, ESD and other mooted developments.

None of this is to suggest that the issues of concern in the various submissions received should not be pursued by means other than an SMA. Possible reforms are discussed in section 9.

Taking into account the MOG tests, the Departmental alternative and the narrow and limited purpose sought to be achieved by the SMA proposal, the Committee has reached the conclusion that an SMA should not be established.

6.8 The “Cole/House” Agreement

The WAFIC submission has a number of references to the Cole/House Agreement¹⁴, and to associated issues such as the cost recovery program and changes to that program which are advocated on the basis of “funder-purchaser-provider” and “user pays-user says” concepts.

These matters have not been addressed in detail in the preceding discussion, because the Committee is of the view that they come within the category of issues which could be equally well dealt with in either an SMA or departmental framework. Nonetheless, they raise questions which are very relevant to other aspects of the inquiry and these are addressed separately in section 7.

Recommendation

- 1. That a statutory management authority not be established to administer the State’s fisheries on either a broad basis or in the cost recovery fisheries only.*

¹⁴ House, M. (MLA Minister for Fisheries and Cole, J (Chairman Western Australian Fishing Industry Council), (1995), Future Directions for Fisheries Management in Western Australia: Presented to the 1995 Annual General Meeting of the Western Australian Fishing Industry Council

7 APPROACHES TO FUNDING

A Fisheries Portfolio Review was conducted in 1994. A number of its recommendations were adopted, and these decisions, together with the proposed approach to their implementation, were outlined in the so-called Cole-House Agreement of 22 September 1995.

Important measures to be implemented included the following:

- Full cost recovery

The full costs of management of the six major managed fisheries to be recouped from the commercial operators in the respective fisheries, with a phase-in period to 1997/98. A Funding Advisory Committee to be established “to advise the Minister on policies ... and processes for cost attribution and cost recovery.” In 2001/02, the amount recovered through cost recovery was \$10.2 million. This represents 1.89% of estimated GVP from cost recovered fisheries of \$539 million and 22.77% of total Departmental expenditure of \$44.8 million.

- Partial cost recovery

Commercial operators in the “minor” managed fisheries to contribute to management costs at a level based on a low percentage of the GVP of catch. Initially set at 1.25% of GVP in 1995/96, the contribution had increased to 2.825% of GVP in 2001/02, raising \$1.005 million or only 14.8% of management costs.

- Development and Better Interest Fund (DBIF)

All managed fisheries contribute to the DBIF, to an agreed minimum amount each year of \$3.5m or 0.65% of GVP whichever is the greater (in 2001/02 DBIF fees totalled a little over \$4.5m). A significant proportion of the fund is directed to stakeholder representative bodies and projects associated with industry development with a general breakdown for 2001/02 as follows¹⁵:

- Grants to WAFIC and Sector Bodies - \$1.775 million
- Grant to Recfishwest - \$210,000
- Grant to Conservation Council – \$80,000
- Other Industry Funding - \$1.3 million
- Department Initiatives - \$257,000
- Ministerial Initiatives - \$350,000
- General Call Fund –Allocations - \$134,000

Over 90% of DBIF fees are paid by operators in the six major fisheries.

¹⁵ For full details, refer Development & Better Interest Fee – Update, November 2002, Department of Fisheries.

- Enhanced stakeholder role in fisheries management

“A more effective say” for “all principal client groups” to be achieved through processes detailed in Ministerial Guidelines for the MACs, established by the *Fish Resources Management Act 1994* (FRMA).

The first guidelines were issued as part of the Cole-House Agreement and specified that: “These guidelines must be seen as evolutionary and ... over time, will need updating ...”. Replacement guidelines were in fact issued by successive Ministers in 1998, 2000 and April 2003.

The role of MACs in the fisheries management system was established in the original guidelines in the following terms:

“The MAC is an advisory body” (Emphasis in the original)
“Independent advice may be sought by the Minister ... also the advice of the Executive Director of Fisheries will be sought ... as a matter of course.”

This basic position is unaffected by later reviews of the guidelines.

7.1 Full Cost Recovery

An initial obstacle to the timely implementation of full cost recovery in the major fisheries was the difficulty in finding an acceptable process for the attribution of costs. Concern was expressed by industry that the departmental proposals for attribution did not adequately identify the costs (or proportion of costs) which could properly be charged to the various major fisheries, and that this would result in overcharging and, effectively, the cross subsidisation by industry of other sectors and the Department itself.

The need to properly meet these concerns led to the development of increasingly sophisticated financial management models, and a delay in the implementation of full cost recovery (including accruals) from the initial target of 1999/00 to 2001/02.

Cost recovery is now implemented on the Integrated Project and Activity Costing (IPAC) model. The Committee recognises that the IPAC model provides important advantages in terms of Departmental financial accounting and transparency. The Committee is of the view that this model should be retained irrespective of the framework of fisheries management.

The WAFIC submission indicates that WAFIC itself is satisfied that the cost allocation process is now transparent and accurate, that the process itself has not imposed higher costs on industry and that the Department has not used the process to cross subsidise other activities.

On the other hand, the submission notes a continuing scepticism by some industry stakeholders on all of these counts, with particular reference to the Department’s allocation of corporate overhead costs. “It is likely,” WAFIC comments “that this is

due to the lack of understanding of the improvements ... in the cost allocation process rather than a problem with the cost allocation process itself.” The Committee concurs with this view.

That, however, does not resolve the larger cost recovery issue. On the contrary, and consistent with its views on other aspects of this inquiry, the WAFIC submission stresses that it is not the *process* of allocation that is the problem; the problem comes from *the amount to be allocated* as a result of excessive costs being incurred.

As is apparent from section 6, the argument that the cost recovery system involves excessive costs is linked with the asserted failure of the “funder-purchaser-provider” system (FPP), and the “user-pays-user-says” principle. These are discussed in turn.

The Funder-Purchaser-Provider System (FPP)

The term “funder-purchaser-provider” was not referred to in the Cole-House Agreement of 1995. It subsequently appeared in attachments to the Ministerial Guidelines for MACs in 1998 and 2000 (though not in the most recent guidelines issued in April 2003).

The concept refers to a management system in which the funding, purchasing and provision of services would be clearly separated on the following general lines:

- The funder (being the Minister on behalf of the government) establishes the policies and framework for fisheries management, and meets the cost of their implementation.
- The purchaser (officers delegated to undertake that function on behalf of the Department) identifies and purchases the services required to implement the funder’s objectives.
- The provider may be a service section of the Department itself or, if the required service is in a contestable area, may be another department or come from the private sector.

The way in which this division of functions is described has varied from time to time and often in ways which tend to obscure the factual position. Two examples illustrate the point.

- (i) The MAC Guidelines in 1998 and 2000 describe the role of the funder in the FPP as follows:

“The Funder establishes the broad directions and framework for fisheries management ... and is effectually comprised of the Minister (and MACs) and the Executive Director of Fisheries WA (and members of the Agency Development Committee).”

This could well be understood as putting MACs into some sort of partnership with the Minister in *determining* relevant policy, and that cannot be right, given

the innumerable ways in which the limitation of MACs to an *advisory* role has always been stressed. The same applies to the Executive Director and others.

- (ii) A more recent example is found in the WAFIC submission where it is suggested that, in practice, the funder of the cost recovered fisheries is now the commercial industry because it meets the full cost of their management. Again that cannot be right because, while it is consulted and advises, the industry *does not set the policy*. The authority to do so remains, exclusively, with the Minister.

The Committee also notes in passing, that to regard the industry as the funder would deprive the “cost recovery” system of its natural and intended meaning, that is, a system whereby the government determines and meets the cost of specified services - and then recovers the cost from others.

The WAFIC submission asserts that the separation of functions that FPP was directed to “has not occurred.” The Committee agrees with that conclusion. However, although promoted in the context of instituting the cost recovery system, the FPP concept, in retrospect, seems to have had nothing to add to what has been applied without it, namely, (i) an obligation on the Minister (under the FRMA) to consider MAC advice; and (ii) an ability in the department (subject to government policy from time to time) to consider outsourcing as a possible means of reducing costs. The Committee is of the view that, when improvements to the cost recovery system or the operation of MACs or fisheries management generally come to be considered, recourse to FPP will continue to be unnecessary and unhelpful.

“User Pays, User Says”

The WAFIC submission refers to the “user pays, user says” concept at a number of points in its submission. It was also emphasised at the Committee’s preliminary meeting with industry representatives, and it is apparent that it has been regularly advanced in the industry’s interaction with government. As a preliminary observation and to keep the place of this concept in perspective, the Committee notes that, as with its support for the funder-purchaser-provider system and a statutory management authority, WAFIC’s emphasis on user pays-user says is directed to the single narrow objective of reducing the management costs of the CR fisheries, so as to reduce the fees payable by industry.

The major problem with user pays-user says is that, despite its regular use in discussion, it remains a concept or (in WAFIC’s term) a “philosophy,” without official status and, importantly, without even a clearly established meaning.

The term “user pays, user says” does not appear in the Cole-House Agreement or its supporting papers and Ministerial statements. Nor, so far as the Committee has been able to determine, has it been referred to in subsequent government material, let alone adopted as government policy. On the other hand, there have been many indications by government that the importance of industry involvement in the decision making process is well recognised. To that end, the view has been expressed, variously, that industry should have a “greater say,” a “major say,” and a “more effective say” in the process, to be achieved by effective consultative arrangements. All such statements,

however, have been in the context of a government policy based on industry participation in an advisory capacity and not more.

By contrast, industry has looked to user pay-user says as opening the way to a much more direct role in fisheries management. This approach dates back to at least 1995. In the February 1995 edition of the WAFIC journal "Pro West", in an article headed "User pays-user says-Industry's response to future fisheries management", WAFIC's former chief executive, Mr B McCallum said that:

"industry's input comes through the management advisory committee process..."

"These committees will need to change their names to Management Committees to reflect their new status. "

"Management Committees should be the final decision makers on the operations of the fishery overall ..."

Current industry comment on user pays-user says is much less forceful than in 1995, but also less clear. For example, in elaborating on its concern that there has been "a distortion of the 'user pays, user says' philosophy", the WAFIC submission states that:

"Under this philosophy the body funding the services should have some **influence and choice** over service provision." (emphasis added.)

"Influence" can be exerted through effective consultation. To exercise a "choice," however, connotes an ability to *decide* on the service to be provided."

To the same effect is the comment elsewhere in the submission that:

"the major cause of the (cost effectiveness) problem lies in the industry's lack of **control** or influence on the expenditure (in) ... the six fully cost recovered fisheries. (emphasis added)

"Under normal contestable market circumstances, consumers of services typically 'have a say' in the types of goods and services they **choose** to consume. This is achieved through comparing prices and quality of products between different service providers (emphasis added)

"With ... fisheries management, this does not apply. That is, there is no 'user pays, user says.'"

There are two aspects to this line of argument and they are concisely and graphically summarised by "user pays, user says." Most discussion on the phrase has focussed on its "user says" aspect, that is, on industry's view that "the say" should extend beyond the advisory consultative role which currently applies. "User pays," however, as the other side of the equation, also requires consideration.

On the basis that the cost recovered fisheries industry pays an amount equal to the cost of management services, the argument here is that the industry is effectively the customer purchasing the services and, like any customer, should be able to choose the

services that are bought, from whom and at what price. This proposition seems to the Committee to be the same as advanced in the funder-purchaser-provider discussion and to invite the same response, that is, that “cost recovery” is to be understood in its natural meaning, which places the government (not industry) as “the customer,” with a capacity to recoup its costs from others.

If that is right, it is reasonable to ask: If industry is not paying as a customer for management services, what is it paying for.

If, for the sake of argument, the Committee’s view is not accepted, this different question arises: If industry is in fact “the customer” for fisheries management services, should this be accompanied by the exercise by industry of the usual rights of customers.

Both questions call for some re-examination of the place of the cost recovery program in fisheries management.

7.2 Reviewing the Cost Recovery Program

As previously indicated, the cost recovery program (CRP) was announced and implemented in 1995. In the meantime, there has been a great deal of attention to issues of implementation, but very little consideration of the program’s rationale, or of its continued appropriateness.

Arising from the range of issues in the submissions and material available to it, the Committee has noted a basic conceptual difficulty in the CRP model.

This arises from the fact that, while industry, through the CRP, offsets the cost of maintaining the fisheries resource, it pays nothing for the resource itself, that is, for its privileged commercial access to the exploitation of the resource.

In principle – stressing again that fisheries are a common resource – a fair return to the public requires a link to the value of the resource made available, and that can not be met by a measure based on the cost of management. Put another way, what the “customer” is actually paying for under current arrangements is the access to the resource, not its management. The way in which the CRP is structured tends to obscure that position, and to divert attention from the more basic issues involved.

Submissions by the Department of the Premier and Cabinet, Recfishwest and the Conservation Council supported a move from the CRP to a resource rent. The Committee is aware of the Government’s pre-election statement that a fisheries resource rent tax would not be introduced, and for practical reasons, including the need for comprehensive consultation, economic analysis and legislation that could not

be done, in any event, in the term of the current government. The Committee, however, is of the view that the possibility of a fisheries royalty should be reconsidered for future implementation¹⁶.

The Committee also suggests that the issue of a fisheries royalty is directly relevant to WAFIC's justified concern at the industry's current inadequate security of access to the resource. As the WAFIC submission indicates:

“.... many licence holders purchase licences under the presumption of perpetuity over access rights and therefore have attached a significant amount of 'goodwill' in securing these licences. Licences are, in fact, only for the duration of 12 months.”

Clearly a “presumption” of permanence is no substitute for legislatively established longer term security of access to the resource. Given the economic importance of the industry and the substantial costs of engaging in it, the Committee is of the view that longer term security of access is almost self-evidently desirable provided this is balanced by a more reasonable public benefit from the common resource than is now available under the cost recovery program. The Committee therefore proposes that any move to a fisheries royalty should be linked with the provision to industry of longer term security of access to the resource (subject always to the requirements of ESD).

Predicated on rates being set at a fair and reasonable level which allows the industry to continue to prosper, the benefits of a move to a fisheries royalty would therefore include the following:

- The public would receive a return which is directly linked to the value of its common resource.
- A fisheries royalty would be consistent with the approach to all other common resources in this State, and unassailable in principle.
- It would anticipate, in an orderly way, a change which is almost certain to be forced in the foreseeable future as fish values rise further under supply/demand pressures. There is a limit to the extent to which the public can be expected to accept that development with no direct nett benefit in return.
- Industry's case for greater security of access rights would be strengthened.
- Contentious issues such as costs attribution and departmental cost effectiveness would become irrelevant.
- So would concerns about cross-subsidisation.

¹⁶It is noted that a royalty model already applies to 'minor' fisheries where fees are based on a % of GVP. That is also the case with the DBI fee. It also acknowledged that there are differing considerations relating to aquaculture and pearling, noting that the “community” resource, in this case, is the coastal water used as farm sites.

The Committee recognises the need for professional expertise and extensive consultation in the development of a royalty regime, and recommends accordingly.

On the question of future funding options, the Committee noted that Recfishwest supported the introduction of a recreational fishing licence for finfish but that this has previously been considered and rejected by Government¹⁷. The Committee recognises the difference, in principle, between the imposition of charges on the fishing industry (for its privileged commercial access to the common resource) and the acceptance by Government of a community service obligation to manage recreational fisheries.

Recommendations

2. *That a move from the cost recovery program to the introduction of a fisheries royalty, in conjunction with increased security of access rights, be considered for future implementation.*
3. *That, to assist consideration of a fisheries royalty, an expert panel be established to advise on its possible form and implementation.*

¹⁷ Recfishwest suggests that if all recreational fishing were licensed, the fees could amount to at least an additional \$5 million per annum.

8 POSSIBLE FRAMEWORK FOR A STATUTORY AUTHORITY

The Committee's second term of reference calls for a report on the framework of a fisheries SMA should a decision be made to establish it.

As indicated in section 6 of the report, the Committee does not support the creation of a statutory authority. However, should Government decide that an SMA should in fact be established, the submissions provide a useful set of guidelines for its form and operation. These include the following basic requirements –

- An expertise based board.
- Clearly defined lines of authority and responsibility between the Board and the Minister.
- Responsibility for the allocation and re-allocation of fisheries resources for IFM to be exercised by a separate body outside of the SMA structure.
- The need for fisheries management decisions to be subject to the overriding requirements of ESD
- An emphasis on consultation, transparency and accountability in respect of the decisions and cost effectiveness of the SMA, to Parliament, industry and other stakeholders, and the broader community.
- A comprehensive legislative framework.

The Committee is of the view that if Government decides to move to a fisheries SMA, the timing of that move and the development of relevant legislation should not be finalised until a clearer picture emerges on the implementation of IFM and ESD criteria.

9 IMPROVING THE EXISTING MODEL

The third of its terms of reference requires the Committee to inquire into and report on possible improvements to the existing Departmental model. Submissions on this aspect of the inquiry were mainly directed to the following issues:

- Ministerial/Management Advisory Committees
- The case for a peak advisory board
- Management Plans
- Research
- Performance management/measures
- A broader approach to marine management
- Amalgamation of Fisheries into a larger department

These are discussed in turn.

9.1 Ministerial/Management Advisory Committees (MACs)

There are currently more than 20 advisory committees established under the FRMA and the Pearling Act (12 of which are regional recreational fishing advisory committees) and most are designated as MACs. Four of these are statutory MACs: for the rock lobster fishery, the recreational fishery, aquaculture and pearling. Other MACs are established to provide advice on particular commercial fisheries and regional recreational fisheries, and on the management of the Abrolhos Islands and other specific issues or initiatives.

Comments in this report are limited to the 10 “fishery” MACs listed in Appendix 2.

All submissions by non-departmental stakeholders expressed dissatisfaction with the structure of MACs and with their effectiveness as consultative bodies. The grounds for concern, however, were different and often conflicting. Thus WAFIC, for example, suggested that MACs are excessively influenced by the Department, while Recfishwest and the Conservation Council argued that MACs are excessively influenced by industry.

On specific aspects of MAC performance, WAFIC expressed concern, among others, at the variable composition and quality of MAC membership, the lack of training of MAC members, perceptions of conflict of interest and the lack of objectives, strategies and performance in Management Plans as a guide to MAC deliberations.

Remedial measures proposed by WAFIC included the development of Strategic Operating Plans to complement Management Plans for the six CR fisheries (refer section 9.3), the appointment of independent (in place of the current departmental) MAC executive officers, and improved training and education of industry personnel.

Recfishwest submitted that “many of the MACs now reflect commercial fishing industry wishes and do not attempt to address the optimum community return from the available resource as detailed in the FRMA”. To remedy that, it suggested that the MAC process – and membership – should reflect the benefit which accrues to the community from the various fishing sectors in each MAC area. Recfishwest also proposed that all MACs “should report to a broader/joint group that has the capacity to assess MAC recommendations for consistency with the objectives of the FRMA.” (The last aspect of this submission is considered in section 9.2).

The Conservation Council urged the need for MACs to include expertise in the ecological, economic and social implications of management options, and more appropriately balance private and public interests.

ACWA expressed a concern over the effectiveness of MACs and a lack of support and understanding of these bodies by industry.

Despite the criticism of MACs, the Committee noted a general acceptance that MACs are an important mechanism for stakeholder – departmental consultation and a major source of advice to the Minister on issues relating to particular fisheries or sectors. Conversely, they are also important as a means through which the Minister can regularly make his policies known to stakeholder groups.

As to proposals directed to improving the MAC model, the Committee supports the view that a broader membership base for MACs is desirable, especially given the increasing focus on ESD and IFM policies. In general, a change in membership structure should be directed to ensuring more effective input on social, economic and ecological issues. In the Committee’s view this need not necessarily result in an increase in the number of MAC members, but rather in some modification of the existing balance of membership. The Committee also notes that the different circumstances in various fisheries makes a uniform system of MAC representation impractical. Membership structures should therefore be determined on a case by case basis.

A number of other submissions in relation to the MAC process are addressed elsewhere in this report, or have already been determined as a result of other reviews. For example, an issue raised by WAFIC about the absence of objectives, strategies and performance indicators in management plans is discussed in section 9.3 below. WAFIC’s proposal for a formal requirement on the Minister to explain to MACs why particular advice has not been accepted is now addressed in the most recent MAC Guide (issued April 2003).

The Committee has considered the further WAFIC proposal that MACs should be serviced by independent (rather than departmental) executive officers to avoid conflicts of interest and excessive departmental influence. The Committee does not recommend a change to this effect, as the perceived problem at which it is directed appears to be more theoretical than real. The Department is officially represented on all MACs by senior officers, so that departmental input/influence is ensured in any event. In the view of the Committee that is both proper and necessary.

Recommendations

4. *That the existing Ministerial/Management Advisory Committee model be retained as an advisory and consultative mechanism.*
5. *That membership of Ministerial/Management Advisory Committees be reviewed on a case by case basis, with a view to an improved input, as appropriate, on ecological, social and economic issues.*

9.2 The Case for a Fisheries Advisory Board

A number of submissions suggested, in various forms, the concept of a peak advisory body as a mechanism to provide higher level strategic policy advice, separate from that provided through the existing MAC structure.

WAFIC indicated that “the Departmental framework would operate more smoothly with the presence of an overarching Fisheries Policy Council [this] would serve as a mechanism to give a cohesive view on issues that cross fishery boundaries or focus on higher level strategic whole of State or Commonwealth interface issues.”

Recfishwest advocated a two-pronged approach including the establishment of a high level stakeholder committee to assist in coordination of management across stakeholders and the establishment of a broader/joint group, to which all existing fishery and sector specific MACs would report. Recfishwest submitted that the purpose of the high level stakeholder Committee should be to “provide advice on the accountability, quality controls, processes and their transparency, the involvement of all stakeholders and the performance measures for the Department.”

The Department suggested that “consideration could be given to creating a specific stakeholder reference panel, with the status of a MAC, to provide advice on cross-sectoral issues – ie. in many ways to act as an advisory Board.”

The Committee was also aware of various peak advisory models in other fisheries jurisdictions. Of particular relevance were the Fishing Industry Development Council in Queensland and the Fisheries Co-Management Council in Victoria. Inquiries by the Committee indicated that both these bodies had proved beneficial in advising on strategic fisheries issues. The Commonwealth fisheries legislation also provides for a Fishing Industry Policy Council although such a body has not been established to date. Discussions with AFMA highlighted the potential benefit of a “policy council” particularly in achieving integration and co-ordination on cross-Government fisheries issues.

In the Committee’s view, the submissions and further inquiries demonstrate benefit in the establishment of a high level expertise based group, perhaps in the form of a WA Fisheries Advisory Board (WAFAB), to advise the Minister on strategic and broader cross-sectoral fisheries and marine management issues.

The types of strategic issues upon which WAFAB could advise include:

- future funding options and revenue streams;
- future directions of integrated fisheries management, ecologically sustainable development and ecosystem based management;
- economic and social impacts of fisheries policies including data collection and analysis;
- strategic research priorities;
- cross-Government issues impacting on fisheries and the marine environment; and
- Departmental performance management and measures.

The key features of the proposed WAFAB would be:

- appointed by the Minister with a direct reporting relationship to the Minister;
- established under section 42 of the FRMA;
- expertise based including specialist skills in areas such as, but not limited to, commercial and recreational fishing, aquaculture, ecosystem management, indigenous fisheries or Aboriginal community development, and business and marketing; and
- independent Chairman.

Fishery MACs would not be replaced by WAFAB and would continue to report directly to the Minister. However, to assist integration and coordination of advice, MAC recommendations should be made available to WAFAB for information and comment, as relevant. WAFAB should comment on those MAC recommendations in conflict with, or having implications for, broader State fisheries policies or strategies. WAFAB should not replace the Fisheries Allocation Council proposed under IFM.

Suggested terms of reference and membership of a possible WAFAB are provided at Appendix 3.

Figure 2 illustrates the proposed Ministerial advisory structure.

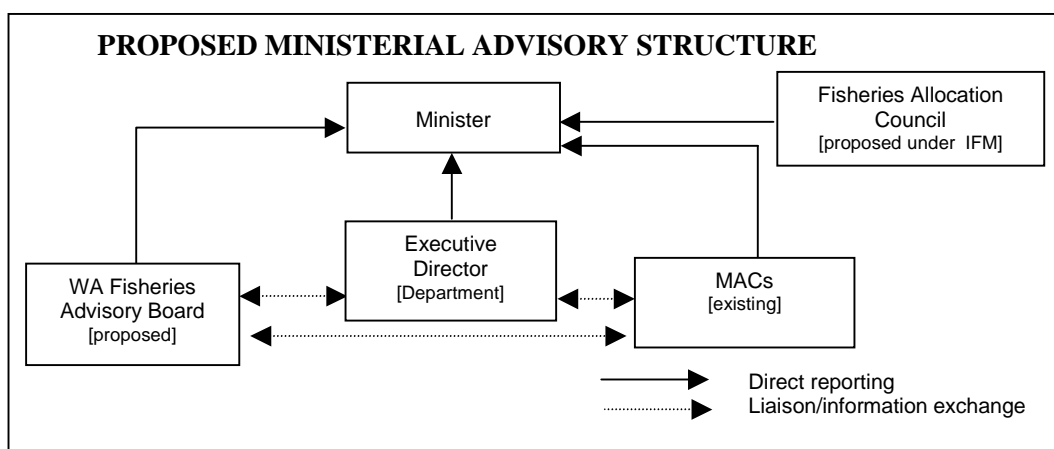


Figure 2: Proposed Ministerial Advisory Structure

The Committee considers that costs associated with the operations of the WAFAB could appropriately be met through the DBIF.

Recommendation

6. *That an expertise based WA Fisheries Advisory Board be established to advise the Minister on strategic fisheries and marine management issues.*

9.3 Management Plans

A Management Plan is subsidiary legislation made under section 54 of the FRMA. In general terms, it describes the set of rules relating to a particular fishery (eg. boundaries, seasons, gear, classes of authorisations).

Only WAFIC raised concerns about the inadequacy of Management Plans. WAFIC submitted that Management Plans do not provide industry with “long- term directions on resource allocation, management objectives, strategies to achieve objectives, performance indicators and consultative arrangements.” WAFIC argued that the absence of aims and objectives in Management Plans resulted in MACs having no guidance to assist in further development of a fishery or to respond to future fisheries management policies and in uncertainty amongst licence holders over future resource allocations and the value/return of their investments. There was also no public demonstration by the Department of the direction and priorities for fisheries management.

To meet these perceived shortcomings, WAFIC recommended the development of strategic operating plans for the six fully cost recovered fisheries that would -

- incorporate aims and objectives for the fishery
- provide strategies to achieve the objectives
- provide performance indicators to measure performance and trigger management responses as necessary
- be developed by the Department in formal consultation with all stakeholders annually and be presented to the respective MACs.

The strategic operating plans, it was argued, would complement existing statutory Management Plans.

The Department acknowledged the desirability of specified aims, objectives and performance indicators and proposed that these should be incorporated in Ministerial Policy Guidelines rather than in Management Plans. This is primarily due to the cumbersome nature of processes required for amending Management Plans, the lack of flexibility which results, and the potential for non-productive litigiousness.

The Committee agrees with the WAFIC view that it would be desirable to establish aims, objectives and performance indicators for cost recovered fisheries (and preferably, all fisheries).

Accordingly it is recommended that a strategic direction be established for each fishery incorporating a statutory Management Plan and a strategic operating plan. The strategic operating plan should include a statement of aims, objectives and performance indicators and should encompass key strategies and any operating guidelines for the fishery.

The Committee is of the view that these matters should not be incorporated within Management Plans to avoid the range of concerns raised by the Department.

It is recommended that strategic operating plans be developed, within two years for commercial fisheries and within five years for all other fisheries and be reviewed at least every two years thereafter, by the Department in consultation with all stakeholders (including MACs).

Figure 3 illustrates the Committee's suggested approach.



Figure 3: Strategic Direction for WA Fisheries

Recommendations

7. *That a strategic direction be established for all fisheries encompassing a statutory Management Plan and a strategic operating plan.*
8. *That strategic operating plans be developed for all commercial fisheries within two years, and be reviewed at least every two years thereafter.*
9. *That strategic operating plans be developed for all other fisheries within five years, and be reviewed at least every two years thereafter.*
10. *That the development and review of strategic operating plans be conducted by the Department of Fisheries in consultation with all stakeholders (including Ministerial/Management Advisory Committees).*

9.4 Research

9.4.1 Environmental Audit

The increasing emphasis on ecological sustainability, the demands of IFM and mounting community pressure to preserve both fish and fish habitats have placed greater emphasis on the need for sound scientific information on which to base biomass estimates and preservation and yield decisions. Thus the fundamental requirement for effective fisheries management is the ability to deliver fact based, accurate scientific advice.

There was a general concern in submissions about the inadequacy or lack of research attention to a number of fisheries and to 'ecosystem' issues. This was also highlighted in the IFM report, particularly in relation to the need for substantial additional funds for finfish research. The Committee endorses the position reached in the IFM review.

The Committee recognises that the Department's biological research is well advanced in key commercial sectors such as rock lobster and prawns. There is, however, no independent mechanism for validating the methodology, accuracy and interpretation of key research outcomes, particularly biomass estimations and yield. In the Committee's view consideration should be given to the establishment of a process for independent review. This is not to suggest that every individual fishery requires assessment each year, rather that a thorough review should be undertaken, on an independent basis, of one or two fisheries each year. The focus should be on both data collection methodology and on research outcomes. This work should be seen as complementary to existing fisheries assessment processes such as that required by Environment Australia in relation to export fisheries.

9.4.2 Economic and Social Research

There is also a gap in social and economic research and advice, which have not been seen as core areas of Departmental expertise. Policy development should take into account social and economic as well as environmental factors ("triple bottom line" approach), and submissions pointed to a number of instances where this broader approach could lead to better decisions.

The Recfishwest submission, for example, claimed that-

"For Australian herring, the commercial fishery is worth approximately \$400,000 per annum (with a marginal return of approximately 4-5 cents per fish) but the recreational fishery could generate in the vicinity of \$50-\$100 million dollars."

The evaluation of this claim, by utilising the triple bottom line approach, should result in improved fisheries management outcomes.

Another example of the suggested benefits of a broader approach is the conflict between the commercial and recreational sectors over the take of black bream in the Hardy Inlet, and arguments around the value and benefits arising from the fishery to

each sector and to the community. In addition to fishery-specific issues, there are also wider issues relating to regional, indigenous or social outcomes which may benefit from a broader approach.

The Committee is of the view that the oversight of improvements in the social and economic information base could be an appropriate function of the proposed WAFAB [see section 9.2]

9.4.3 Cooperative Research

The submission from the Department of the Premier and Cabinet indicated that there could be advantages in establishing a Cooperative Research Centre which would allow a multi-agency contribution to marine research generally “without changing the existing close alliance between fisheries researchers, managers and compliance officers which continues to deliver benefits in the current (Fisheries) departmental structure.”

The Department of Fisheries also submitted that, given the nature of EBM and the increasingly complex scope of relevant research, there was a need to develop partnerships in research with other institutions.

While the potential importance of these cross-Government and multi-agency proposals is acknowledged, the issue is beyond the Committee’s terms of reference.

Recommendations

11. *That an independent audit process be established to validate the methodology, accuracy and interpretation of key research outcomes particularly biomass estimations and recommendations on yield.*
12. *That the Department of Fisheries, in conjunction with the WA Fisheries Advisory Board (if established), develop a mechanism to collect, analyse and consider relevant social and economic information for key fisheries and projects.*

9.5 Performance Management/Measures

Performance management requires attention under the terms of reference for the inquiry, although the submissions did not address this matter in detail.

In its submission WAFIC points to a lack of indicators “to track cost performance and effectiveness”. The Conservation Council identifies a gap in socio-economic reporting within the ESD framework. The Department points to various reporting measures including annual reporting to Parliament, stakeholder reporting through MACs, and public reporting through various initiatives. A number of other submissions refer in general to the need to develop indicators and to target and monitor outcomes.

The Committee accepts that an effective performance measurement system is an essential component of best practice fisheries management. Various stakeholders

have different perspectives on relevant performance measures and, as the Committee has recommended in section 9.2, advice on these measures should be a function of the proposed WAFAB.

Recommendation

13. That the proposed WA Fisheries Advisory Board review and advise on performance measures to demonstrate efficient and effective management of the State's fisheries resources.

9.6 A Broader Approach to Marine Management

Submissions from the Conservation Council and Recfishwest made a number of comments relating to whole of government marine management.

The key thrust of the Conservation Council submission is for ecosystem based management. It is argued that this has been impeded by the absence of a whole of government approach to marine natural resource management resulting in little integration across agencies, sectors and communities with respect to the marine environment.

Recfishwest commented on the lack of a coordinated approach to marine conservation between the Department of Fisheries and the Department of Conservation and Land Management.

The Department submitted that the lack of a comprehensive integrated approach to marine planning has created uncertainty as to the respective roles of the Department, the Department of Conservation and Land Management and the Marine Parks and Reserves Authority (MPRA).

The Committee is of the view that benefits to the State would accrue from a more coordinated, whole of Government approach to marine management.

A recent example of this is the transfer of the marine safety function of the Department of Planning and Infrastructure to the Department of Fisheries. This transfer recognises the potential for operational efficiencies where substantially similar expertise is required by different departments in common areas of operation.

The Committee is of the view that there could well be similar benefits from the interchange of information, expertise and resources between Departments in the service of wider marine management policies.

The Committee is aware of the recent independent review of the MPRA¹⁸ which covers an aspect of this broader question. The Committee is of the view that a similar independent inquiry should be established to address the broader issue of the integration of marine management generally.

¹⁸ Review by Alex Errington

Recommendation

14. *That an independent review be conducted to identify opportunities for improved coordination and integration of marine management in WA.*

9.7 Amalgamation of Fisheries into a Larger Department

The MOG Taskforce gave preliminary consideration to the possibility of merging Fisheries WA into a single Department of Agriculture, Fisheries and Forests. The Taskforce concluded that consideration of this issue should be deferred pending the outcome of the inquiry into a fisheries SMA.

Submissions by WAFIC and Recfishwest opposed the amalgamation concept and were agreed on the desirability of the Department of Fisheries being retained as a stand-alone agency. WAFIC, however, would support the outsourcing of corporate services in a “shared services” model if that could be shown to offer significant savings. The Committee notes that a shared corporate services model is currently being implemented by Government.

While not directly addressing the amalgamation issue, comments by the Department of the Premier and Cabinet on other aspects of the inquiry supported the continuation of Fisheries as a dedicated Department.

The Committee supports the general approach of these submissions.

Fisheries management involves distinctive and complex issues, as indicated by the sheer number of recent and current inquiries to which reference has been made, and the significant changes which are likely to result. Overall, stakeholders acknowledged the Department’s record in effective fisheries management. This reflects, in part, its development of sophisticated financial management models and the transparency and accountability which these provide. These are likely to be at risk if the fisheries portfolio is merged with another Department. The Committee believes that the Department’s current stand-alone status will leave it best placed for what is likely to be a quite difficult and strenuous period of transition.

Recommendation

15. *That the Department of Fisheries be retained as a stand-alone agency.*

APPENDICES

Appendix 1: Reference Material

Written Submissions

- Department of Primary Industries and Resources (South Australia)
- Department of Primary Industries (Victoria)
- Australian Fisheries Management Authority
- WA Gamefishing Association
- Pet Industry Joint Advisory Committee
- Conservation Council of WA
- Department of the Premier and Cabinet
- Department of Conservation and Land Management
- Recfishwest
- Department of Fisheries
- Western Australian Fishing Industry Council
- Aquaculture Council of WA
- Department of Treasury and Finance
- Department of Environment Water and Catchment Protection
- Western Rock Lobster Council

Stakeholder meetings

- Department of Fisheries
- Western Australian Fishing Industry Council
- Recfishwest
- Conservation Council of WA

Other Briefings/Inquiries

- Department of the Premier and Cabinet
- Forest Products Commission
- Australian Fisheries Management Authority
- Fisheries Victoria
- Queensland Fisheries Service

References

- ABARE, (2002), Australian Fisheries Statistics.
- Department of Agriculture, (2001-2002), Western Australia's Agricultural, Food & Fisheries Industries.
- Department of Fisheries, Development & Better Interest Fee – Update, November 2002.

- Department of Fisheries, (2003), Fisheries Statutory Management Authority Background Paper, Fisheries Management Paper No. 166.
- Department of Fisheries, State of the Fisheries Report, 2001/02
- Environment and Natural Resources Committee, (December 2001), Inquiry into Fisheries management First Report: Co-management.
- House, M. (MLA Minister for Fisheries and Cole, J (Chairman Western Australian Fishing Industry Council), (1995), Future Directions for Fisheries Management in Western Australia: Presented to the 1995 Annual General meeting of the Western Australian Fishing Industry Council.
- Ministry of the Premier and Cabinet, (2001), Government Structures for Better Results: The Report of the Taskforce Established to Review the Machinery of Western Australia's Government. The Machinery of Government Taskforce.
- Report to the Minister for Agriculture, Forestry and Fisheries by the Integrated Fisheries Management Review Committee, (2002), Fisheries Management Paper No. 165, Department of Fisheries.

Related Reviews and Reports

- Review of Boards and Committees within the Fisheries Portfolio, (July 2002), Prepared as Part of the Implementation of the Recommendations of the Machinery of Government Taskforce on behalf of the Hon Kim Chance MLC, Minister for Agriculture, Forestry and Fisheries (unpublished).
- A Guide for Management and Ministerial Advisory Committees (MACs) and the conduct of meetings issued by the Minister for Fisheries [No.'s 1, 2 and 3]
- Department of Fisheries, Annual Report, 2001/02
- Department of Fisheries, (2002), Policy for the Implementation of Ecologically Sustainable Development for Fisheries and Aquaculture within Western Australia.
- Aboriginal Fishing Strategy: Draft Report to the Minister for Agriculture, Forestry and Fisheries by the Hon. E. M. Franklyn QC, Chairman of the Aboriginal Fishing Strategy Working Group, (May 2003), Fisheries Management Paper No. 168, Department of Fisheries.
- "Looking to the Future" – A Review of Commonwealth Fisheries Policy, (2003) Department of Agriculture, Fisheries & Forestry Australia.
- ACIL Tasman. Management Advisory Committees: Concept and Conduct – A Report to the Australian Fisheries Management Authority (January 2001).
- Legal analysis project – "The Nature and Extent of Rights to Fish in WA: Possible Applications to Management and Allocation"
- Review of Development and Better Interest Fund guidelines
- Aquaculture Industry Development Plan and Legislative Review
- Review of the Commercial "Wetline" Fishery
- Review of the Effective Delivery of Government Priorities ("Functional Review")

Appendix 2: Ministerial and Management Advisory Committees¹

(As at June 2003)

MAC Title	Membership Breakdown [numbers]						Frequency [meetings per year]	Estimated ² direct cost [01/02]	Source of funds
	Comm. Sector	Rec. sector	Community ³	Ministerial ⁴	Dept./Govt ⁵	Total			
Rock Lobster Industry Advisory Committee	10	1	-	1	2	14	4	266,000	CR
Pearling Industry Advisory Committee	6	-	-	4	1	11	2	73,000	CR
Aquaculture Development Council	3	-	-	3	2	8	6	71,500	CF
Recreational Fishing Advisory Committee	1	8 ⁶	3 ⁷	1	1	14	5	251,000 ⁸	CF
Abalone MAC	4	1	1	1	1	8	3	20,000	CR
Joint Trawl MAC ⁹	8	1	2	1	1	13	2	13,000 ¹⁰	CR
WA Demersal Net & Hook Fisheries MAC ¹¹	6	1	1	1	1	10	2	15,000	CF
Abrolhos Islands MAC	2	1	3	1	3	10	4	87,000	CF
Purse Seine MAC	6	1	-	1	1	9	1-2	20,000	CF
Northern Demersal Scalefish Interim Managed Fishery MAC ¹²	4	2 ¹³	1	1	1	9	1-2	9,600	CF

¹ Does not include Fisheries Adjustment Scheme committees or other specific initiative committees

² Approximate only. Includes cost of Executive Officer support

³ Includes, for example, conservation and indigenous sector

⁴ Includes the Chairman

⁵ Includes *ex officio* members

⁶ Includes a tackle industry and charter industry representative

⁷ Includes a media representative

⁸ Includes costs of 12 regional committees

⁹ This MAC was established in 2003 and replaces three individual trawl MACs

¹⁰ Costs relate to Shark Bay scallop, Shark Bay prawn and Exmouth Gulf prawn MACs

¹¹ Previously known as the Southern Demersal Gillnet and Demersal Longline Fishery MAC

¹² To be abolished

¹³ Includes charter industry representative

Appendix 3: Proposed Western Australian Fisheries Advisory Board (WAFAB)

Terms of Reference

The role of the WA Fisheries Advisory Board will be to advise the Minister on:

1. Development and review of strategy, policy and planning for fisheries and marine resource management in WA.
2. Optimising the benefits of the fisheries, aquaculture and marine resources sector throughout the entire supply chain.
3. Matters relating to the directions of integrated fisheries management, ecologically sustainable development and ecosystem based management.
4. Strategic fisheries management issues of a cross-program or cross-sectoral nature and beyond the terms of reference of individual fishery Ministerial/Management Advisory Committees (MACs).
5. Overall strategic priorities in relation to research, compliance and fisheries management.
6. On-going performance measurement.
7. Issues referred to it by the Minister, the Executive Director of Fisheries, individual MACs or on any other matter considered relevant by the Board.

Composition of the Board

The Board shall comprise 9 persons including an independent Chairman, the Executive Director of Fisheries and persons with demonstrated expertise drawn from, and broadly encompassing, fisheries related science; ecosystem management; fisheries or natural resource management; commercial and recreational fishing; aquaculture; indigenous fishing or Aboriginal community development; and business and marketing.

Operations of the Board

It is proposed that the Board will meet in the order of four to six times per year or as may be determined by the Minister/Board and may undertake out-of-session activities. The Board may also utilise other expertise or form working groups and sub-committees to address particular issues.

Reporting

The Board will report to the Minister and will be serviced by officers of the Department of Fisheries.

ABBREVIATIONS

ACWA	Aquaculture Council of Western Australia
AFMA	Australian Fisheries Management Authority
Committee	Statutory Management Authority Advisory Committee
CR	Cost Recovery
CR fisheries SMA	Cost Recovered Fisheries Statutory Management Authority
CRP	Cost Recovery Program
DBI	Development and Better Interest
DBIF	Development and Better Interest Fund
Department	WA Department of Fisheries
EBM	Ecosystem-based Management
ESD	Ecologically Sustainable Development
FRMA	Fish Resources Management Act 1994
FPP	Funder Purchaser Provider
GVP	Gross Value of Production
IFM	Integrated Fisheries Management
IPAC	Integrated Project and Activity Costing
MAC	Ministerial/Management Advisory Committee
MOG	Machinery of Government
MPRA	Marine Parks and Reserves Authority
QFMA	Queensland Fisheries Management Authority
SMA	Statutory Management Authority
TAC	Total Allowable Catch
WAFAB	Western Australian Fisheries Advisory Board
WAFIC	Western Australian Fishing Industry Council

January 2004

Submission by the Department of Fisheries to the Fisheries Statutory Management Authority Advisory Committee

Foreword

In October 2002, the Minister for Agriculture, Forestry and Fisheries established an independent committee to inquire into the feasibility and desirability of establishing a single statutory management authority to administer Western Australia's fisheries. The advisory committee – the Fisheries Statutory Management Authority Advisory Committee - released a draft report in November 2003.

The following submission was prepared by the Department of Fisheries in response to the committee's draft report.

A copy of the draft report is available on the Department's website at: <http://www.fish.wa.gov.au/corp/broc/SMAACReport/index.html>

SUBMISSION BY THE DEPARTMENT OF FISHERIES

Recommendations	Department's Comment
<p>1. That a statutory management authority not be established to administer the State's fisheries on either a broad basis or in the cost recovery fisheries only.</p>	<p>The Department supports the recommendation that a single authority manage all fisheries in the State. The question whether this single agency is a statutory authority or Department is central to the inquiry. The leadership of the Department supports a Department model in the absence of any overriding argument or case to apply a contrary position, especially with the need for longer-term management integration of fisheries exploitation with conservation and marine planning needs for the State in the context of broader natural resource management.</p>
<p>2. That a move from the cost recovery program to the introduction of a fisheries royalty, in conjunction with increased security of access rights, be considered for future implementation.</p>	<p>The Department supports this recommendation in principle, although it favours a review of funding options across all user groups. In the context of Integrated Fisheries Management, this requires an appropriate mechanism for funding across all sectors; i.e greater contribution from the recreational fishing sector.</p> <p>The Department does not consider that the cost recovery process (CRP) excludes a fisheries royalty or <i>vice versa</i>. Indeed the current Development and Better Interest Fund (DBIF) is an existing mechanism of a "royalty", although all funds are currently directed back into fishery related issues. While the CRP is resource intensive the proposal to move to a fisheries royalty <i>only</i> model has some drawbacks and is not supported. Rather the Department seeks to retain the CRP and strive towards improving the discipline of external scrutiny and transparent accounting, while encouraging industry to move away from the petty issues that arise from a "low level" focus on cost recovery, to focus instead on higher order issues of efficiency and effectiveness in service delivery. Nevertheless the introduction of a royalty could assist government to fund integrated fisheries management, the aboriginal fishing strategy, and improve the standard of servicing of minor commercial fisheries.</p> <p>The benefits of CRP flow also from the direct relationship between cost of services, its delivery and the funding available. A royalty would flow to Consolidated Fund and would need to be hypothecated to the Department for the purpose of fisheries management. This needs further consideration as to the case for continued funding support for the fisheries portfolio.</p>

<p>3. That, to assist consideration of a fisheries royalty, an expert panel be established to advise on its possible form and implementation.</p>	<p>The Department supports this recommendation.</p> <p>The panel should be independently chaired. A careful examination of legal risks and other issues associated with royalties, including the nature and form of property rights for all sectors go hand in hand. Also refer to review recommendation (2).</p>
<p>4. That the existing Ministerial/Management Advisory Committee model be retained as an advisory and consultative mechanism.</p>	<p>The Department supports this recommendation</p> <p>The Department is committed to the existing MAC model. The MAC process could be further developed for the larger fisheries by facilitating partnership groups and assisting industry in having a more strategic focus on industry development.</p> <p>However, experience to date is that most MACs still have difficulty focusing their attention at this level, focusing on the fishery detail and minor issues, and often overflowing into industry sectoral meetings. Some refinement of the way a number of MACs undertake their business is therefore desirable, especially so that the broader social and economic issues which underpin Ecologically Sustainable Development and integrated fisheries management are adequately addressed. In particular the cost effectiveness and usefulness of MACs for the smaller fisheries should be further reviewed. Consideration should be given to the creation of single “zonal” MACs to cover minor commercial fisheries. This may have relevance for the South and West Coasts in particular where there are a number of smaller fisheries. A model similar to the General Fisheries Advisory Committee having a bioregional natural resource management focus would be more useful together with a more balanced cross sector representation. This would be similar to the zonal advisory committees in Queensland.</p> <p>Also a more formal agreement between the Minister and industry about the structure, type and frequency of alternative consultative mechanisms such as industry meetings needs to be considered.</p>
<p>5. That membership of Ministerial/Management Advisory Committees be reviewed on a case by case basis, with a view to an improved input, as appropriate, on ecological, social and economic issues.</p>	<p>The Department supports this recommendation and considers that the proposed WA Fisheries Advisory Board should conduct this review. Areas for improvement regarding MACs include providing better training for MAC members and creating a broader level of expertise based membership (see 4 above). Attracting membership and participation in these committees however continues to be problematic.</p>

<p>6. That an expertise based WA Fisheries Advisory Board be established to advise the Minister on strategic fisheries and marine management issues.</p>	<p>The Department supports this recommendation. This should go beyond the bounds of the objectives of the FRMA and address all strategic issues impacting on fisheries for advice to the Minister in the context of appropriate governance for the management of fisheries resources and their relevant environments.</p>
<p>7. That a strategic direction be established for all fisheries encompassing a statutory Management Plan and a strategic operating plan.</p>	<p>The Department supports this recommendation. Indeed this initiative is already underway. The Minister has recently approved as a trial, the use of Ministerial Policy Guidelines as the medium for the public statement of the policy rationale connected to matters that the Executive Director must take into account when making decisions in respect to fisheries managed under the auspices of a management plan. This includes the development of specific objectives for a fishery and performance indicators as guideline statements within the broad objectives umbrella of the FRMA Act.</p>
<p>8. That strategic operating plans be developed for all commercial fisheries within two years, and be reviewed at least every two thereafter.</p>	<p>The Department supports this recommendation in principle.</p> <p>With current (ESD) commitments and the fact that this is a resource hungry process the Department will not be able to develop strategic operating plans for all commercial fisheries within the specified 2-year timeframe. The Department, however, believes it can finalise plans for the 6 major cost recovered fisheries during this timeframe.</p>
<p>9. That strategic operating plans be developed for all other fisheries within five years, and be reviewed at least every two years thereafter.</p>	<p>The Department supports this recommendation in principle.</p> <p>However, the Department considers that this process will take some time to complete and should flow out of the ESD process and provide linkages to bioregional reviews and Integrated Fisheries Management. Resourcing will continue to be problematic <u>unless</u> additional funding is committed for the management of minor fisheries.</p>
<p>10. That the development and review of strategic operating plans be conducted by the Department of Fisheries in consultation with all stakeholders (including Ministerial/Management Advisory Committees).</p>	<p>The Department supports this recommendation.</p>

<p>11. That an independent audit process be established to validate the methodology, accuracy and interpretation of key research outcomes particularly biomass estimations and recommendations on yield.</p>	<p>The Department supports this recommendation in principle.</p> <p>However, given the relatively small size of the WA research community with expertise in population modelling in particular, there will be logistical, time and cost implications inherent in implementing such an approach e.g. through the need to obtain relevant input from researchers based in (say) eastern states or New Zealand.</p> <p>It should be noted that the Office of Auditor General already provides a basic annual audit process for major commercial fisheries. In addition the Commonwealth Department of Environment and Heritage undertakes specific assessments of all major export fisheries every five years. The Department suggests that a more specialised fisheries audit process, managed by the WA Government via the Environmental Protection Authority is developed to replace both functions. This is an issue for both State and Commonwealth Government negotiation and agreement.</p>
<p>12. That the Department of Fisheries, in conjunction with the WA Fisheries Advisory Board (if established), develop a mechanism to collect, analyse and consider relevant social and economic information for key fisheries and projects.</p>	<p>The Department supports this recommendation in principle.</p> <p>The Department fully agrees that long-term ‘relevant’ social and economic survey databases be established and maintained by the Department as a core activity. Expert analytical capacity should then be developed within the Department and/or through private providers to provide confidential assessments for the CEO and Minister. This is a critical issue for the Department’s and the Government’s “triple bottom line” reporting policy. The reality for progressing with this approach depends on the level of aggregation. It has meaning and relevance at a regional or bioregional level and perhaps for the State’s significant fisheries. For the minor fisheries, its value is extremely limited and arguably not meaningful in setting or understanding social outcomes. A great deal of development work in these areas across all natural resource management is required. Any approach is likely to be evolutionary.</p> <p>Note: There are opportunities for cooperative research inherent in this recommendation. The Department would like to suggest that the Department’s current strong collaborative partnerships with all of the universities and other researchers (e.g. CSIRO) be noted in the text of the Committee’s reports . Partner research organisations are particularly encouraged by the Department to undertake marine research, which is outside of core work required for fisheries sustainability.</p>

<p>13. That the proposed WA Fisheries Advisory Board review and advise on performance measures to demonstrate efficient and effective management of the State's fisheries resources.</p>	<p>The Department supports the recommendation in principle.</p> <p>At present the Department's accounts and performance indicators are subject to annual review by the Office of the Auditor General. In addition the Office of the Auditor General has also conducted reviews on aspects of the performance of the Department on a periodic basis.</p> <p>Hence while the Department believes that the new expertise of the proposed Board will assist in developing and refining performance indicators it is suggested that the Annual Report should be used as the primary reference and reporting mechanism for any future review process.</p>
<p>14. That an independent review be conducted to identify opportunities for improved coordination and integration of marine management in W.A.</p>	<p>The Department supports this recommendation for improved marine planning and management.</p> <p>The former Deputy Ombudsman Alex Errington has already undertaken some work in a review of the Marine Parks and Reserves Authority. Government has also recently created a Senior Officers Group reporting to the Cabinet Sub-committee on Sustainability to consider and report on integrated marine management issues. Ultimately this is a matter for Government but is clearly a priority for the sensible management of marine resources in this State.</p>
<p>15. That the Department of Fisheries be retained as a stand-alone agency.</p>	<p>The integration of fisheries management, research and compliance within a single resource management agency has been and continues to be one of the single important success factors in the management of WA fisheries. Any loss of focus away from the delivery of fisheries management as the key purpose of the agency, with time will ultimately impact on the effectiveness of fisheries resource management for Western Australia.</p>