



31 March 2022

Please find attached a Tasmanian Seafood Industry Council (TSIC) response to the questions posed in the *Modernising Tasmania's Fisheries Legislation: A review of the Living Marine Resources Management Act 1995 DISCUSSION PAPER* document.

This submission has been endorsed by the TSIC Board.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Harrington', is written over a light blue, wavy background that resembles a signature strip.

Julian Harrington

Chief Executive



SUMMARY OF RECOMMENDATIONS

Recommendation 1: The White Paper must recommend the development of a new overarching legislative framework to replace the current Act.

Recommendation 2: The Act should eliminate any duplication of requirements for marine farming operations when they are already addressed in other legislation. The Act should also clearly articulate which sections apply to marine farming and which sections do not apply to marine farming.

Recommendation 3: The Act must clearly acknowledge the commercial seafood sectors importance and protection of jobs, economic return and provision of food to ALL Tasmanians protected within the Principles and Objectives of the Act. The Act must remove politics out of the decision making process.

Recommendation 4: To achieve meaningful outcomes for marine resource management, the management authority (NRE Tas) and scientific provider (IMAS) must be adequately resourced.

Recommendation 5: A new contemporary legislative framework must include clear and prescriptive Principles and Objectives to help understand who and why we are managing our marine resources and to help guide decision making process.

Recommendation 6: A new Act must include appropriate compensation and / or ability for structural adjustment for commercial operators if their businesses are negatively affected by future resource sharing arrangements.

Recommendation 7: To support grassroots fishers, employment, and economic return to Tasmania, TSIC recommends the implementation of strategies and incentives that promote and support ownership of quota and licences by active fishers based in Tasmania.

Recommendation 8: A new Act must include the capacity for large scale, ecosystem level changes to the marine environment, such as Centostephanus, and more importantly, a trigger for Government consideration of funding to ensure capacity and capability to manage such changes in a timely manner.

Recommendation 9: Include in a new Act a 'use it or lose it' provision to control latent effort and ensure the long-term return Tasmania from existing licences.

Recommendation 10: Consider the establishment of a Tasmanian Marine Resources Commission, which would have the delegated authority to oversee and approve management of Tasmania's marine resources including approving management decisions that current sit with the Minister.

Recommendation 11: TSIC recommends the review of licencing structures to identify administrative and financial efficiencies for government and industry.

Recommendation 12: A seafood experience / seafood charter licence structure and management plan should be developed in support of long term sustainability.

Recommendation 13: TSIC calls for a review of all fees, charges levies to determine their relevance, equity and need. Where policy for the charge is no longer relevant, or requirements are met in other legislation, then the fee should be removed.

Recommendation 14: Recommendation 9: TSIC recommends a compulsory digital reporting framework for all recreational fishing activities (catch and local) to support the ongoing sustainable management of Tasmania's marine resources and to support enforcement of rules and regulations.

Recommendation 15: The Act must accommodate the free flow of information about a licence and changes to a licence to all people deemed a responsible person.

TSIC Overview

The Act

The Living Marine Resources Management Act 1995 (the Act) mostly affects the management of Tasmania's wild catch marine resources and seafood processing sectors.

The COVID-19 pandemic highlighted the inability for the Act to be responsive to urgent needs of industry. Many barriers were identified, and in some cases support for impacted fishers, processors and marine farmers delayed while legislative solutions were sought. Similarly, the Fisheries Digital Transition project highlighted the prescriptive nature of the Act, which limited the ability to transition to the transfer of data via digital means, and instead required Amendment Bill be developed and passed through parliament.

It is the view of TSIC that the White Paper must recommend the development of a new contemporary legislative framework to replace the current Act.

Recommendation 1: *The White Paper must recommend the development of a new overarching legislative framework to replace the current Act.*

The current Act has limited application to Marine Farming, and where there is application, there is often significant overlap with other regulation that better supports the management of marine farm operations (i.e. Marine Farming Planning Act and Primary Production and Processing Standard for Seafood).

The White Paper should clearly acknowledge that the current Act's core function is to manage wild capture fisheries and seafood processing, with less relevance to marine farming.

Recommendation 2: *The Act should eliminate any duplication of requirements for marine farming operations when they are already addressed in other legislation. The Act should also clearly articulate which sections apply to marine farming and which sections do not apply to marine farming.*

Given the core function of the Act is wild catch and seafood processing, in unison with *Recommendation 2*, this TSIC response will predominately focus on application of the Act to wild catch fishing and the broader marine environment.

The Tasmanian Seafood Industry Council

The Tasmanian Seafood Industry Council (TSIC) is the peak body representing the interests of wild catch fishers, marine farming businesses and seafood processing businesses. With respect to the wild catch sector, TSIC represents the interests of active fishers in Tasmania. That is individuals who hold a Fishing Licence Personal – i.e., those people who physically go to sea and catch fish.

TSIC Policy aims to support the interests and access rights of our fishers, marine farmers and seafood processors. Central to TSIC policy is support for three key seafood outcomes – 1) employment; 2) direct economic return to Tasmania, particularly in regional communities; and 3) provision of Tasmanian seafood to Tasmanian' either directly from fishers or through retail, wholesale and food service outlets.

The Tasmanian Seafood Industry

The Tasmanian seafood industry is a very complex industry, which includes both large scale business structures and small sole-trader businesses. In turn, the sector supports a diverse range of subsidiary businesses that are reliant on the seafood sector. The sector has an important footprint in regional communities.

The structure of the wild catch fishery supply chain is complex and includes investors who simply own quota; quota owners who actively fish; fishers who lease / supervisor a licence and buy in quota; processors; exporters; wholesalers; retailers and food service, amongst more. Each part of this supply chain has differing objectives, values and ideals, and in some instances, these may not align with the overarching objective of management – the long-term sustainability of the resource.

Traditionally, the value of the Tasmanian seafood industry is measured as Gross Value of Production (GVP), with the current GVP being over \$1 billion. Management has utilised scientific advice to make decisions, with the fundamental management principles being based on Maximum Economic Yield and / or Maximum Sustainable Yield. Where stock rebuilding is deemed necessary, management actions are implemented, and specific timeframes used to measure success. All these decisions impact every aspect of the industry structure, from fishers through to exporters.

Although long term sustainability of resource must be a primary objective of fisheries management, we cannot forget the people who make our commercial seafood industry. The people employed in the industry, spreading their economic returns into the Tasmanian community and providing quality and sustainable seafood for all Tasmanians – including the more than 4 in 5 Tasmanian's who do not recreationally fish or fish infrequently. Without commercial seafood, these people cannot access Tasmanian seafood.

The Tasmanian commercial seafood industry provides seafood for all Tasmanians.

People and their contribution to regional communities must be considered in the decision-making process. If stocks remain on an upward trajectory, but will take longer to reach recovery targets within the specified timeframes, we must consider delaying reaching a target if peoples jobs and region economies would be significantly impacted. Politics must be removed from the decision making process.

The protection of people and their livelihoods must be included within the principles and objectives of the Act.

Recommendation 3: *The Act must clearly acknowledge the commercial seafood sectors importance and include the protection of jobs, economic return and provision of food to ALL Tasmanians within the Principles and Objectives of the Act. The Act must remove politics out of the decision making process.*

To achieve a successful and contemporary management regime, the division managing our marine resources (NRE Tas) and scientific research provider (IMAS) must be appropriately resourced to achieve required outcomes.

Recommendation 4: *To achieve meaningful outcomes for marine resource management, the management authority (NRE Tas) and scientific provider (IMAS) must be adequately resourced.*

In summary, the importance of the commercial seafood industry cannot be undervalued. We provide important jobs, we provide direct economic return into Tasmanian communities and we support a multitude of subsidiary businesses that support the seafood sector.

And most importantly, we provide quality sustainable seafood on the plate of Tasmanian's. Without a commercial seafood sector, the more than 4 in 5 Tasmanian's who do not recreationally fish or infrequently recreationally fish would not be able to access Tasmanian seafood, and would instead rely on imported seafood. This is not a fair and equitable outcome for majority of Tasmanian's or the Tasmanian brand.

Structure of this Submission

This submission will address each question asked in the LMRMA Review Document.

The TSIC Board believe that this is not the appropriate forum for the commercial sector comment on current and future aboriginal access to Tasmania's marine resources, so we have not included responses to such questions.

This in no way diminishes the importance of Sea Country and seafood to the aboriginal people.

The TSIC Board acknowledge the Palawa Tasmanian Aboriginal people as the traditional owners of Tasmania and Tasmanian Sea Country and we pay our respects to their elders past and present.

MODERNISING TASMANIA'S FISHERIES LEGISLATION RESPONSES

TSIC SUBMISSION

INTRODUCTION

1. How well do you think the Tasmanian legislative regime has supported the protection and management of Tasmania's marine resources over the past 26 years?

The Living Marine Resources Management Act 1995 (the Act) provides the overarching framework for the protection and management of Tasmania's marine resources. It allows for the creation of Fisheries Rules, management plans, management policies and gives powers for compliance and enforcement, amongst more.

In theory, the system created under the Act could provide for the protection and management of Tasmania's marine resources. In reality, there are a diverse range of factors that influence marine resource management, including but not limited to environmental change, resource sharing conflict, political decision making, scientific uncertainty and unpredictable recruitment (amongst many, many more).

A review of the current status of Tasmania's key fish stocks and the status of the Tasmanian marine environment that supports these fish stocks shows that the combination of fisheries management and other external influences has not afforded appropriate protection to our marine resources over the last 26 years.

- The most recent rock lobster assessment data shows virgin biomass in zone 2 is at 10%, zone 5 at 12%, zone 3 at 16%, zone 7 at 17% and zone 4 is at 18% virgin biomass. Zone 1 is 21% virgin biomass, but propped up by the productive southern Bruny / Friars region. Although these figures are far better than the historical lows of 10 years ago, 20% is a target reference point, the absolute lower limit that you do not want to go below.
- Regardless of the fierce debate over equitable allocation of rock lobster on the Tasmanian East Coast, the recreational sector has excess capacity to easily overcatch its current allocation. There has been no political appetite to further constrain the recreational catch on the East Coast, which has in turn impacted the rebuilding of rock lobster stocks on Tasmania's East Coast.
- Abalone stocks have consistently declined over the last 13 plus years, from an historical high TAC of over 3,500 tonnes to below 800 tonnes in 2022. The Western Zone and Greenlip abalone stocks are classified as depleted and depleting. Urchins, marine heat waves and fishing pressure have all contributed to this outcome.
- Tasmania's East Coast has undergone significant change as giant kelp forests have disappeared and invasive long spine urchins and their associated barrens have crept down the east and south coasts. Neither the LMRMA nor other Acts (i.e. Biosecurity Act) have adequately provided a clear strategy and financial path for supporting the control of these significant problems and protection of the marine environment.

- The Government called for a review of calamari stocks in 2018, after concerns for the sustainability of the fishery were raised by industry and supported by government. As of March 2022, there is no clear plan, strategy or direction around how we will manage calamari stocks in a long-term, sustainable way.

TSIC acknowledge that managing our marine resources and the marine environment is an exceptionally complex and difficult task. The current Act does not provide clear direction as to why / who we are managing our marine resources, and there are no clear measures for successful management outside sustainability of stock.

Some parts of the Act are far too prescriptive, making it difficult to implement contemporary or different management strategies and technologies in a timely manner.

There is a need for a new contemporary legislative framework in Tasmania (Recommendation 4) rather than a band-aid fix of the current Act. A new Act must provide clear and prescriptive Principles and Objects to help guide the decision making process and the effective management of Tasmania's marine resources in the interests of all.

Recommendation 5: A new contemporary legislative framework must include clear and prescriptive Principles and Objectives to help understand who and why we are managing our marine resources and to help guide decision making process.

- 2. What do you think will be the major challenges for the sustainable management and development of Tasmanian living marine resources in the next 20 years?***
- 3. How do you think the legislative regime will, or should, respond to those challenges?***

The Tasmanian marine environment is an incredibly complex space with significant environmental, social and political influence. The major challenges over the next 20 years will include the following.

Development of a new Act

As defined in Recommendation 1, TSIC is calling for the development of a new contemporary legislative framework (new Act) to manage Tasmania's marine resources. This new Act will need to provide the framework and tools required to address the key issues identified in the rest of this section in a fair and equitable way. The framework must not only ensure long-term sustainability of marine resources and the marine environment, it must also support the long-term sustainability of the commercial seafood sector. It must acknowledge the importance of the commercial seafood sector and afford protection to the people who derive employment, provide important economic stimulus into Tasmania and who make Tasmanian seafood available to all Tasmanians (Recommendation 3 and Recommendation 5)..

The new Act should also include measures of success against the defined Principles and Objectives.

Evidence Based Decision Making

A four-year election cycle, external influence from a range of stakeholders, including political, and difference of opinions between and even within different marine resource user groups creates an exceptionally challenging environment for decision making and can stifle the

implementation of big, meaningful changes in how we manage Tasmania's marine resources.

A new Act must clearly articulate the process that will drive evidence-based decision making. It must define what data, information and influence will be used to derive a decision, while at the same time remove the influence of non-evidence based political influence and decision making, whether that be through politicians, ENGO's, commercial or recreational sectors amongst more.

Resource Sharing

The Tasmanian marine environment is a shared space. This has, is and will continue to create significant conflict around access to both water and the animals it holds. Recent conflicts are numerous and include anti salmon expansion and conflict around resource sharing arrangements and perceived inequitable access for rock lobster and abalone for the recreational sector.

Understanding what is the fairest and most equitable way to share Tasmania's marine resources will be a difficult task as arguments depend on which side of the fence you sit.

Any discussions around resource sharing must acknowledge the importance of the commercial seafood sector in providing and supporting employment; economic return into Tasmania and provision of Tasmanian seafood to more than the 4 out of 5 Tasmanian's who do not recreationally fish or fish infrequently.

The resource sharing process must acknowledge, support and protect the future viability of the commercial seafood sector and assures that all Tasmanian's can access seafood now and into the future (Recommendation 3).

It must also be acknowledged that the recreational sector can and does have a significant impact on marine resources and they must also contribute to long-term sustainability through both restrictions on access and by clear and transparent recording and reporting of catch.

If resource sharing discussions result in the removal of commercial fishing effort from regions, and impact the operations of commercial seafood operators then appropriate compensation and / or structural adjustment support should be included in the process.

Recommendation 6: A new Act must include appropriate compensation and / or ability for structural adjustment for commercial operators if their businesses are negatively affected by future resource sharing arrangements.

Continued separation of quota ownership from the catching sector

TSIC represents the interests of people who hold a Fishing Licence Personal – that is active fishers. Data from IMAS shows a continuing trend for the separation of ownership of ITQs from the catching sector. Today, there are very few fishers in Tasmania who own enough quota to be self-sufficient in the business operations, with majority reliant on leasing in quota from investors or even reliant on other work and income external to seafood. This is creating several challenges for the fishing fleet. If current trends continue we will see less

boats in the fleet over time, which will include the continued transition from a full time and potentially corporate owned seafood workforce.

If this is not the direction that industry or the government want, then a new Act must clearly define who and why we are managing our marine resources and includes measures of success against metrics such as employment and economic return to Tasmania. It must also include mechanisms to support grassroots fishers ability to earn a livelihood from Tasmania's marine resources and also include incentives and support for owner operators – i.e. fishers to own licences and quota.

Recommendation 7: *To support grassroots fishers, employment, and economic return to Tasmania, TSIC recommends the implementation of strategies and incentives that promote and support ownership of quota and licences by active fishers based in Tasmania.*

Environmental Change

It is well known that Tasmania's marine environment is changing. Warming waters are bringing with it new species, some of which are welcomed (i.e. King George Whiting, Yellow Tail Kingfish, Snapper), while others, such as the invasive long-spined urchin (*Centrostephanus*) is bringing with it significant negative environmental impact. And warming water is bringing other challenges, such as the die-off of giant kelp along Tasmania's East Coast which is creating significant ecosystem change.

Any future marine resource management regime must include a framework to support and more importantly, fund the effective management of ecosystem level change.

Recommendation 8: *A new Act must include the capacity for large scale, ecosystem level changes to the marine environment, such as *Centrostephanus*, and more importantly, a trigger for Government consideration of funding to ensure capacity and capability to manage such changes in a timely manner.*

Technological advancement

Technology is improving at a rate never seen before. New technologies may bring economic efficiencies, which may come at the cost of jobs and number of boats needed in the fleet; while other technologies may afford greater environmental protection.

Any future marine resource management regime must find a balance between utilising new technologies, protecting the marine environment and supporting jobs and economic return to Tasmania and Tasmanian's.

THEME ONE: OBJECTIVES AND SCOPE

1. Purpose and objectives of the Act and sustainable development

1. *Are the current objectives of the Act, including that of achieving sustainable development, still relevant for the Act? What other objectives for the management of our living marine resources could be relevant*

The Purpose and Objectives of the LMRMA, taken in unison with the objectives of the Resources Management and Planning System of Tasmania provide high level statements around why we are managing our marine resources.

There is a specific focus on sustainability of the resource. Schedule 1, clause 2 acknowledges the need for *enabling people and communities to provide for their social, economic and cultural well-being and for their health and safety* however, this takes far lower precedent (if at all) in the current decision making processes.

Despite these high-level directives around people, communities and social wellbeing, the discussion paper itself shows that *maximum sustainable yield* and *maximum economic yield* are the key contemporary fisheries management concepts used in Tasmania.

Although sustainability of the resource and economics are important, it is the view of TSIC that management should place a higher focus on the people in the industry (Recommendation 3 and Recommendation 5). In particular, there should be objectives around:

- Supporting jobs in Tasmania;
- Maximising economic return into Tasmanian communities as a direct benefit from seafood; and
- Supply of seafood for all Tasmanian's – noting that more than 4 out of 5 Tasmanians do not recreationally fish or they fish very infrequently.

2. The purposes refer to the community and the community's interests. What do you think community means and what are their interests?

Community refers to all Tasmanian's, who are ultimately the owners of the resource. TSIC acknowledges that the interests of the Tasmanian community are exceptionally diverse and includes commercial, Aboriginal and recreational interests, as well as other marine users.

Community certainly includes the commercial seafood sector, which provides jobs, economic return to tasmania, and provides Tasmanian seafood to all Tasmanians.

The communities interests must include:

- Long term sustainability of the resource and the marine environment.
- Provision of employment opportunity;
- Providing economic return to Tasmania;
- Accountability of all users – both in data collection to support science and management and for supporting long term sustainability.

2. Scope of the Act

1. What are your views on the scope of the Act? Are any key activities relating to the protection, development and management of our marine resources missing that should be added, or should anything be removed?

The Act provides appropriate scope for the management of our wild marine resources and the marine environment.

There should be consideration on what sections of the Act relating to marine farming could be removed as it is currently duplicated or superseded through other legislation, or could be moved into other legislation. This would reduce the complexity in managing marine farms in Tasmania and could streamline process and costs for marine farmers.

2. Benefit

1. How should the costs and benefits from living marine resource use be calculated? You may want to consider biological, economic, Aboriginal cultural and social aspects.

This TSIC response will highlight the benefits provided by the commercial seafood industry. These benefits provide significant public good for all Tasmanians, which in turn should counter some of the costs associated with managing our marine resources.

In recent years, IMAS has provided a socio-economic analysis of Tasmania's key commercial fisheries. This has highlighted the importance of the Tasmanian seafood industry to Tasmanian employment and the Tasmanian economy. Of specific note, the analysis shows the household income and business re-spend in other sectors, money that is repent into the Tasmanian community for the benefit of Tasmania.

Other seafood programs provide further significant benefits for Tasmania. Of note, biotoxin management in Tasmania is majority funded by the Tasmanian shellfish industry. This program has considerable community benefit, which again should outweigh some costs of management.

Possibly the biggest benefit provided by the commercial seafood industry is the provision of quality Tasmanian seafood to all Tasmanians. The LMRMA Review Paper quotes that over 100,000 Tasmanians recreationally fish, which means that over 400,000 Tasmanian's do not recreationally fish, and rely on commercial seafood to put Tasmanian seafood on their plate.

2. Should there be a return to the State and the Tasmanian community from the use of a public resource? In addition to economic return, what Aboriginal cultural, environmental, and social benefit could be returned?

The commercial seafood sector provides many positive returns to Tasmania and the Tasmanian economy, all of which provide a return to the State and provide community benefit to all Tasmanian's (see 1 above). These benefits should in some part offset commercial access to the resource.

The Government should consider incentives to support Tasmanian based licence / quota owner operators, who provide direct employment and economic return to Tasmania and Tasmanians (see Recommendation 7).

3. Access

1. Are the character tests for participation in the regulatory framework appropriate?

TSIC believes the character test (fit and proper person test) remains an appropriate assessment for approving commercial access to Tasmania's marine resources.

2. Should the Act consider the character of corporate entities beyond the corporate structure?

Corporate and other entities are increasingly owning licences and quota. It is the view of TSIC that all people within a company structure should pass the fit and proper person test, as they are directly benefiting from the ownership of a Tasmanian licence or quota unit and should be accountable for having that access.

3. What other conditions should be applied under the Act to those who seek or have been granted access to Tasmania's living marine resources?

Data shows an increasing trend for companies, partnerships and even superannuation portfolios to own licences and quota and there is considerable 'wharf talk' about an increasing trend for offshore entities and money funding the purchase of licences and quota.

It is the view of TSIC that any new Act must maximise economic return to Tasmania and Tasmanian's, with specific reference to Tasmanian based owner operators. TSIC recommend the government explore mechanisms that:

- Maximise ownership by owner operators or Tasmanian based entities; or at worst restrict ownership to Australian residents / businesses;
- Provide incentives and benefits for Tasmanian based owner operators;
- Restrict ownership by investment entities, such as superannuation funds;
- Define maximum licence and quota holdings to one person or entity to prevent a small number of entities monopolising a sector.

There must also be greater certainty of ongoing access rights for owners, as this will promote investment in the sector. This could be achieved by firming up property rights within the Act and by having a longer term renewal periods for a licence / quota.

The fundamental benefit of a commercially allocated licence is that it provides employment, economic return to Tasmania and provision of seafood to consumers. These benefits are not realised if a licence is not used. TSIC also notes recent examples where ENGOs have purchased commercial fishing licences with the aim of removing sustainable commercial effort from a region.

Licence / quota access should only be granted on a 'use it or lose it' principle.

Recommendation 9: *Include in a new Act a 'use it or lose it' provision to control latent effort and ensure the long-term return Tasmania from existing licences.*

4. Resource sharing and sectoral allocation

1. Should the legislation include a framework for resource sharing?

2. If yes, what elements might comprise such a framework?

The Tasmanian marine environment is a shared space, and its resources are a shared resource. TSIC acknowledges the importance of access for the Tasmanian recreational and aboriginal sectors. The commercial sector, however, is also very important for employment, economic return to Tasmania and provision of Tasmanian seafood to all Tasmanians.

Resource sharing discussions will continue to create significant conflict between different users. Understanding what is the fairest and most equitable way to share Tasmania's marine resources, while also maximising benefit and return to Tasmania and Tasmanian's is a difficult task. Perspectives (and arguments) depend on which side of the fence you sit and what your investment is.

Any discussions around resource sharing must acknowledge that recreational access is exactly that, a hobby for people who have other forms of employment; while commercial access provides a livelihood and income to families and a return to Tasmanian communities. If commercial access is taken away, then livelihoods are eroded, to the detriment of Tasmania and Tasmanian's.

Any resource sharing discussions must acknowledge:

- the importance and need for an ongoing viable commercial sector (Recommendation 3);
- that the recreational sector has a significant impact on marine resources and there is still a need to constrain their effort in order to achieve long-term sustainability;
- changes in allocation in favour of the recreational sector will disadvantage commercial operators and impact their business models and livelihoods. Appropriate compensation and / or structural adjustment opportunity must be included in the Act (Recommendation 6).

5. Legislative design

1. Is the Act easy to understand and follow

Grassroots seafood operators find it difficult to understand and interpret the Act, and the connections between the Act and the subordinate legislation that also impacts what they can and cannot do. It is a difficult and complex legislative and compliance environment for a commercial fisher.

TSIC understands that any Act and rules will always be complex. That is why it is important that plain speak Guidance documents are produced to assist fishers understand what they are allowed to do and what they are not allowed to do.

Furthermore, the lack or inability to police and enforce rules and regulations should not be the trigger for further draconian regulations to be implemented (i.e. rules around baited pots on the deck of a rock lobster vessel while in a closed area).

2. In considering the three legislative design aspects above, what hierarchy between the Act and other instruments would best support sustainability.

It is the view of TSIC that a new principles-based Act should be developed (Recommendation 1). This new Act would include a clear prescriptive set of principles and objectives that guide the why and who we are managing marine resources for (Recommendation 5). A new Act must provide a high level framework that enables the government to manage our marine resources through rules, management plans and other subordinate instruments.

This concept is analogous to the recent development of the Biosecurity Act in Tasmania.

Theme Two: Fisheries management framework

2. Current management framework

1. Do you think the current management framework for fisheries making is effective, easy to understand and supports the objectives of the Act?

2. What improvements would you like to see?

The current management framework provides a clear and defined approach to development of management plans, rules and regulation. It defines an inclusive consultative process to implement change.

The process takes input from a diverse range of stakeholders, which means there is often polarised views as to what changes should occur. Defined processes take time to implement change, with political and election cycles potentially further delaying the implementation of change.

For some time, TSIC has been calling for the development of a 10-year plan for the Commercial Fishing industry. Part of this document would be to understand the trajectory of our seafood industry under status quo and different management scenarios. Integral to the plan was the inclusion of a strategy around how we should / could manage our marine resources into the future, with the concept of Harvest Strategies as a rules-based approach to manage our fisheries are an integral part of these discussions and planning.

Not only is it frustrating that the Government has not pursued this urgent need, TSIC finds it conceited that the Tasmanian Government state in the LMRMA document that, *through the Tasmanian Recreational Sea Fishing Strategy 2021-2030 the Tasmanian government has undertaken to develop harvest strategies for key priority species* – completely independent of any formal discussions or planning with the commercial sector (Page 28 of the LMRMA Review Document).

3. Role of science and research

1. Do the current requirements for the use of scientific advice and evidence provide adequate support for the sustainable management of Tasmania's living marine resources?

2. Are there alternative approaches to the integration of science into decision-making that should be considered?

Sustainability of marine resources and maintaining a healthy marine ecosystem are important objectives of any marine resource management, and scientific advice and evidence is a vital component of sustainable management.

Scientific stock assessments, modelling and other scientific evaluation is only as good as the data collection and the appropriateness of analysis applied. There is always a level of uncertainty, and assumptions can always be challenged, which creates further uncertainty. In turn, independent peer review is an important part of all scientific process.

Scientific uncertainty could be used to trigger the precautionary principles, which in turn could place restrictions on commercial operations, and in turn affect peoples income and livelihood. Conflict will occur when industry observation does not align with the scientific knowledge and / or application of the precautionary principle.

It is vital that strategies that maximise the amount of quality data that can be collected are explored. The rock lobster research pot and abalone dive use of gps and dive loggers are great examples of improving data collection in collaboration with industry. Furthermore, the inclusion and use of commercial abalone divers in IMAS led surveys maximises data collection and provides an inclusive approach to scientific data collection.

The government should provide incentives to fishers who are willing to collect additional data to support the scientific assessment of our marine resources.

The Government must also provide appropriate financial support for research through the Sustainable Marine Research Collaborative Agreement (SMRCA).

The decision making process, however, cannot solely rely on science. And management should not fully focus on achieving sustainability targets within set timeframes to the detriment of jobs and economic return to Tasmania. Instead, support for people, jobs, community and economies must be a part of the management decision making process.

4. Consultation on fisheries management

1. Do the consultation mechanisms effectively and appropriately allow for engagement with all interested stakeholders? Are there better ways of consulting?

2. Are the existing consultation bodies and associated processes effective, and do they adequately cover the social, economic, and environmental needs of fisheries management?

The current consultative process is inclusive, accessible, and fair; and current stakeholders included in the process provide a fair representation of key interested parties. One criticism would be that the consultation process can sometimes delay the ability to implement agreed changes. For example, consideration of increasing the size limits of southern rock lobster in parts of the Eastern fishery have been delayed through election cycles and consultation processes.

Consultation is only one part of the management process, with the actual decision-making being the most important part of the process. Depending on the exact process, the Minister or their delegated authority can take advice from a diverse range of entities including commercial and recreational Fishery Advisory Committees, peak representative bodies, the Department of Natural Resources and Environment Tasmania, the Institute for Marine and Antarctic Studies and the broader community interests.

There is no clear process or policy around how different levels of information are weighted in the decision-making process.

A new Act must provide a clear process for an evidence-based decision making process (see 5. Decision making powers below).

5. Decision making powers

1. What should be considered when determining who should be the decision maker at each stage of the fisheries management framework?

The current decision-making authorities in theory appear to be effective and appropriate for managing our marine resources.

The development of a new Act provides the opportunity to separate political influence into the decision making process. This could be achieved through the establishment of a Tasmanian Marine Resource Commission (similar to the AFMA commission).

Recommendations from FACs could pass to the Commission for decision making. This system would include a clear protocol for decision making.

Recommendation 10: *Consider the establishment of a Tasmanian Marine Resources Commission, which would have the delegated authority to oversee and approve management of Tasmania's marine resources including approving management decisions that current sit with the Minister.*

6. Developing new fisheries

The *Developmental Fisheries Management Policy* provides a framework for short term (12 month) access to new species and / or gear types. There is currently no clear process for allocation of longer-term access or allocation of licences outside of a 12-month permit, and some permits are currently being renewed annually to allow continued access.

TSIC believes that the current Act has appropriate powers to allocate new licences and develop management plans for a new fishery ,with the key barrier for progressing this need being human resources capacity and capability.

THEME Three: Regulatory Framework

1. Characterisation of the regulatory regime

Given the complexities associated with a shared marine resource, a direct government regulatory approach appears appropriate.

There are specific aspects and areas within the regulation of the commercial seafood sector where alternative regulatory mechanisms, even co-regulation, could be an appropriate, cost-effective management strategy. Such systems could operate under a trust and verify model to ensure accountability.

TSIC encourages the government to further explore opportunities for co-regulation.

TSIC also encourages the Government to explore opportunities around the establishment of a Tasmanian Marine Resources Commission (see Recommendation 10)

2. Consideration of input and output controls in best practice regulation?

1. What should the control arrangements be in the Tasmanian fisheries framework? Could access be controlled in a simpler way while still achieving the objectives of the Act?

Examples of your experiences with licensing under the Act can be provided.

The types of input and output controls best suited to manage Tasmania's marine resources will be determined by the overarching principles and objectives of the Act.

TSIC has already stated that the principles and objectives within the current Act are not prescriptive or detailed enough to provide clear direction around why and who we are managing Tasmania's marine resources (Recommendation 5).

Wild catch Commercial Fishing

The current structure of the commercial fishing sector is complex, with general licence requirements (e.g Fishing Licence Personal and Fishing Licence Vessel), sector licences (e.g Scalefish A or B), species licences (e.g wrasse or Banded Morwong licences), gear licences (beach seine, purse seine) and personal endorsements for gear and fishing location, amongst more. For some species, paper ownership of fish (ITQs) is separated from the grassroots fishing licence structure. There should be a review of licences structure to determine both administrative and financial efficiencies for both Government and industry.

Recommendation 11: TSIC recommends the review of licencing structures to identify administrative and financial efficiencies for government and industry.

If the primary objective of management is economic efficiency, then any fishery will over time require less boats, and there should be limited input controls to support economic efficiency. In quota managed fisheries this may result in corporate owned boat with uber style boat drives, with majority of profits flowing to quota owners, who can live outside Tasmania.

If the primary objective is to maximise economic return to Tasmania, then management controls would need to support profits staying within Tasmania and maximisation of employment opportunity for grassroots producers.

Before we can determine how input and output controls and other management controls can provide benefit to Tasmania and Tasmanian's, we must set clear principles and objectives around who and why we are managing Tasmania's marine resources.

3. Permits

1. Should there be a more defined framework for some activities currently regulated under the permits?

'Seafood experience' ventures currently operating under permits are a prime example where a specific management plan should be developed. This would set clear parameters around what is allowed, rather than a raft of permits and permit conditions currently in existence.

This management plan could also incorporate charter fishing operations, which currently obtain commercial gain from Tasmania's marine resources under recreational fishing regulations.

Recommendation 12: *A seafood experience / seafood charter licence structure and management plan should be developed in support of long term sustainability.*

2. Is it suitable to have permit provisions that are broad and allow considerable discretion? Why?

It is appropriate that any Act has broad permit provisions to maximise future opportunity around new species and / or technologies.

4. Fees, charges, and levies

1. How could the current fees and levy arrangements be improved?

This is a very complex question, that is confounded by the diversity and complexity of licencing arrangements and separation of quota ownership from the catching sector (ITQs). This structure has created a continuum of seafood participants, from full owner operators (own licence, boat and any quota needed and actively fish) to full investors (only own quota with no further investment in industry).

Similar to previous responses, the magnitude of any fees, charges or levies is dependent on the overarching principles and objectives of why we are managing marine resources, what are measures of success and in turn what return to community can be measured.

With an increasing cost of fishing, streamlining costs for grassroots active fishers, farmers and processors could be justified given the return to community through employment, and economic spend into community.

There could also be consideration for an upper bounds of payment per licence / renewal. This could be set as a % of GVP, with fees paid in arrears. The % of GVP paid could be offset by any defined benefits the sector provides, such as employment, economic return to Tasmania, provision of seafood and other benefits (i.e. biotoxin testing by the shellfish industry).

Recommendation 13: *TSIC calls for a review of all fees, charges levies to determine their relevance, equity and need. Where policy for the charge is no longer relevant, or requirements are met in other legislation, then the fee should be removed.*

5. Charter Fishery

Refer to previous comments in permit responses.

6. Records and reporting requirements

1. What are your views on the levels of reporting required under the Act?

Reporting not only provides the checks and balances needed to effectively manage, enforce and police rules and regulations, it also provides information on catch and effort, which is vital for scientific evaluation of stocks.

Many of the current reporting requirements are conducted in an archaic manner (i.e. carbon copy triplicate reports and phone reporting), with significant efficiencies and speed in reporting to be gained through using technology (i.e. digital reporting). TSIC acknowledges the Fisheries Digital Transition Project and the associated Living Marine Miscellaneous Amendments (Digital Processes) Bill 2021 as key mechanisms to support digital reporting capabilities and fully supports implementing technologies that minimise compliance and reporting requirements.

The Recreational fishing sector are a significant extractor of some species in Tasmanian waters. TSIC strongly recommends that all recreational fishers have a mandatory legislative requirement to document and submit catch records for all recreational species caught in Tasmania. This would support compliance and enforcement and more importantly, greatly improve the scientific understanding of stocks, which is vital for the ongoing sustainable management of Tasmania's marine resources.

Recommendation 14: *Recommendation 9: TSIC recommends a compulsory digital reporting framework for all recreational fishing activities (catch and local) to support the ongoing sustainable management of Tasmania's marine resources and to support enforcement of rules and regulations.*

7. Exemptions

1. How can the exemption process be improved, if at all?

As shown in the Case Study example – *Exemptions during COVID-19*, the Minister's absolute discretion to grant an exemption can provide significant benefit under certain situations. In this example, the Department was in significant consultation with industry to ensure that potentially impacted fishers were supportive of the proposed exemption.

If an exemption has the potential to impact licenced operators, or provide an unfair competitive advantage to the exemption recipient / against other operators, it is the view of TSIC that consultation must occur.

8. Legal responsibility

1. What are your views on the balance of responsibility and penalties between licensees, deed holders, leases, divers and nominated natural persons?

2. Who should be responsible for ensuring compliance with a licence and activities conducted on water?

TSIC hold several concerns around legal responsibility.

For example, under the current Act, a supervisor on a Rock Lobster Entitlement is not told when quota or pots are transferred onto or off an entitlement, however they are required to always hold a up to date copy of the current entitlement. Even worse, a quota owner or agent can transfer quota or pots whilst a supervisor is at sea on a fishing trip. This opens up a number questions and concerns around legal responsibility.

TSIC believes a person can only be legally responsible if they are privy to all information affecting a licence or deed. This is not currently the case. Therefore, anyone who is deemed a responsible person by the Government MUST be notified of all changes to a licence as they occur.

There are further complexities around mobile / internet range when on a fishing trip that need to be considered.

Recommendation 15: *The Act must accommodate the free flow of information about a licence and changes to a licence to all people deemed a responsible person.*

9. Offences and penalties

1. Are the current penalties for fisheries offences appropriate?

2. How could the rules dealing with compliance be improved?

TSIC supports harsh penalties for people intentionally breaking the rules. TSIC also understands the difficulties in differentiating between those who intentionally break rules and those who unintentionally or honestly break rules.

TSIC believes there must be the ability for anyone deemed to breach any rule or regulation to show cause prior to any penalty being applied. Where there is a justifiable or logical explanation, then Fisheries Inspectors, the Police or a Judge must be able to show discretion when applying penalties.

Of particular note, TSIC believes such processes should apply to abalone related Administrative Penalties (noting these are defined in the abalone rules) and the application of Special Penalties by a court (currently MUST be applied).

In circumstances where quota is involved, and there is reasonable explanation around any quota imbalance and the quota is available to remedy the imbalance, the Department must have the power and ability to make changes.

There should be a clear policy framework for how the Compliance section deals with all offences, with clear communication and ability to show cause being part of all dealings.

And for serious offences that could result in court action and application of special penalties and potential loss of licence, there must be a clear policy that ensures all appropriate efforts are made to contact and communicate with a person when they are asked to show cause (before goes to police / courts), noting that emails and hard copy mail may not reach people and they may not understand the contents.

10. Illegal, Unreported and Unregulated (IUU) fishing

1. Does the Act deal with IUU fishing effectively? What species are most at risk of IUU fishing in Tasmania and how should that risk be better addressed in the legislative arrangement?

The Act requires harsh penalties for people who are deliberately defrauding the state through the illegal and unreported fishing in Tasmanian waters.

The key issue is catching illegal fishers. This requires increased and improved policing and enforcement.

Included in this space is the illegal recreational take, most notably through taking of daily limits during multiple trips per day. This type of activity is commonly reported by commercial fishers – i.e. the same recreational boat heading out several times a day and scallop diving, cray diving etc, with the daily bag taken each trip out.

Imposing a mandatory Recreational Fishing Reporting App will assist the police with this illegal fishing and be a significant disincentive to illegal operations (see Recommendation 14).

11. Enforcement powers

1. What are your views about Tasmanian fisheries enforcement?

2. Are all necessary powers included, noting changes in fishing behaviour and practices?

The current Act provides appropriate powers for enforcement.

The use of technology for catch reporting in both commercial and recreational fisheries will greatly assist police with enforcement. Applying appropriate penalties, and promotion of successful prosecution outcomes into the broader community act as further disincentive to those doing or thinking of doing the wrong thing.

Policing and enforcement activities should be supported by a dedicated Statewide Marine Police Division and an increase in point of landing / processor and on water patrols and checks of catch.

12. Technological opportunities

1. In your view what opportunities are offered by emerging technology in fisheries management and compliance? You may want to consider opportunities for more cost-effective data collection and improved fishing equipment.

Use of technology offers significant opportunity to all stakeholders, including fishers (commercial and recreational), compliance and enforcement and science. It offers the opportunity for near real time reporting through online platforms and near real time data collection of catch. It has capacity to reduce manual reporting requirements (i.e. pre-fishing and landing reporting via an app vs phone report) and should reduce the time cost burden of industry for filling out paperwork.

Technology also offers an opportunity for improved fishing gear, albeit at the potential expense of employment in the industry.

2. How can the legislative design be responsive to emerging technology?

The legislative design must allow the potential use of technology outside any regulations or rules in place, but only under a clear consultative process that includes industry input.

3. Is it appropriate to mandate certain technology where there is a clear management benefit for obtaining this information at a lower cost?

Many fishers will Fishers are notorious Yes? – VMS as the example?

13. Review of decisions

TSIC supports the ability to review a decision.

14. Register

1) Should the register of authorisations be open and accessible by any interested persons? What of commercial and personal privacy considerations?

TSIC understands the need for the Government to keep a register.