



**Response to  
Discussion Paper on the Review of the *Living Marine Resources  
Management Act 1995***

**(April 2022)**

## INTRODUCTION

TARFish welcomes the opportunity to participate in this once-in-a-generation opportunity to review the Living Marine Resources Act 1995 (LMRA or the Act).

As noted in the Foreword, there have been many developments in best practice fisheries management and any amended or new legislation should reflect those changes, including more inclusive and participatory management together with recognition of the rights and aspirations of Tasmania's recreational fishers that have not been formally recognised in legislation previously.

Noting that this review is a once in a generation opportunity, TARFish believes the approach of the Review Committee should be aspirational and work towards a new Act rather than a series of amendments. It is likely that a new Act would better serve best practice fisheries management and have the capacity to respond to emerging challenges.

### TARFish recommendation:

That the Review Committee take an aspirational approach and work towards a new Act that effectively incorporates the developments in best-practice fisheries and has the capacity to respond to emerging and new (unforeseen) challenges.

## MATTERS NOT INCLUDED UNDER THEMES

### **Scope of review and supporting information**

The Minister's Foreword in the Discussion paper states, "the release of the discussion paper is part of a review of the management and regulation of Tasmania's fisheries."

TARFish is not aware of an overall review of the management and regulation of Tasmania's fisheries.

### TARFish recommendation:

Requests the State government provides details on the scope and timeline for the "review of the management and regulation of Tasmania's fisheries."

This is an important consideration given the need for an overall regulatory framework that includes: policies, decision support frameworks (e.g. resource sharing), management plans and harvest strategies which in many instances are yet to be developed.

The Minister's Foreword then goes on to state "numerous developments have occurred in best-practice fisheries regulation and the way in which Tasmania's marine environment is used."

To support the active and informed participation of TARFish in the review of the LMRA, identifying and documenting the "developments in best-practice fisheries" and providing publicly will assist organisations and individuals to consider their views and form an assessment of how they may be included in legislation.

It is beyond the resources of the recreational fishing sector peak body and recreational fishers themselves to prepare this type of detailed fisheries management analysis.

TARFish recommendation:

That within the Draft White Paper or as an addendum to it, that an assessment of “developments in best-practice fisheries management” be documented and provided publicly.

### **Sufficient resourcing to give practical effect to the Act**

TARFish is of the view that there is an absence of an overarching fisheries management framework as noted in the introduction. This is in contrast to the Australian Fisheries Management Authority’s (AFMA) approach for example. To give full effect to the current Act TARFish would expect;

- a. Management plans for key fisheries
- b. Resource sharing arrangements for key fisheries
- c. A policy framework to facilitate the operation of the Act
- d. Sufficient capacity for enforcement and compliance activities
- e. Regular review of the Act

The appropriateness, effectiveness or limitations of the current Act is difficult to assess based on, in some cases, its limited use or the inability to provide such an assessment due to the lack of clear policy and goals for example.

TARFish recommendation:

For the Act to be given practical effect, it must be sufficiently enabled by a full overarching fisheries management framework inclusive of policies, strategies, management plans and harvest strategies.

TARFish recommendation:

That the review consider and provide recommendations on the resourcing requirements and development of the overall framework to support the effective application of the new or revised Act.

TARFish also encourages the review to consider related legislation, specifically:

- i. Inland Fisheries
- ii. EMPCA
- iii. Commonwealth legislation and strategies

A broader review that allows consideration of the ‘whole of system’ legislation may identify opportunities for greater efficiencies in resource management and an integrated and harmonised approach to sustainable development.

## **THEME ONE: OBJECTIVES AND SCOPE**

## **Aboriginal acknowledgment**

TARFish wish to acknowledge the traditional rights of Tasmania's Aboriginal peoples as the first custodians of Tasmania's marine environment. We offer our support to the principles of increased indigenous participation in fisheries management, access to economic opportunity, and recognition and facilitation of participation amongst their communities.

TARFish has refrained from providing further specific views or recommendations in this submission regarding the rights and aspirations of indigenous fishers on the basis it is for Tasmania's aboriginal community to determine.

### **TARFish position:**

TARFish acknowledge the traditional rights of Tasmania's Aboriginal peoples as the first custodians of Tasmania's marine environment. We offer our support to the principles of increased indigenous participation in fisheries management, access to economic opportunity, and recognition and facilitation of participation amongst their communities.

## **Explicit recognition of recreational fishers in legislation**

The LMRA does not currently provide for explicit recognition of the right, aspirations and contributions (social, economic and environmental) of recreational fishers.

### **TARFish recommendation:**

That amended or new legislation explicitly provides for recognition of recreational fishers and includes a requirement to take the interests of recreational fishers into account in all decisions by which they will be affected.

The Tasmanian Government undertook a survey of recreational fishers in 2020. There were 3,208 completed responses to the survey. The Survey report titled "For a Better Fishing Future, Survey Results (September 2020) (Survey Report), indicated very strong support for "Recognising the social and economic importance of recreational fishing" with 85% of respondents indicating support. Further, the initiatives that received the most written feedback included, "better recognising the importance of recreational fishing when managing fish stocks and areas."

The Survey Report goes on to state, "*The overarching theme of comments on this initiative was a lack of satisfaction; respondents felt that the recreational sector was marginalised and undervalued. Around half of the comments mentioned the role of economics in allocation decisions – some suggested that the true economic value of recreational fishing was poorly understood resulting in unfavourable decisions while others suggested that the management focus on economic criteria masked the social and cultural values of the recreational sector.*"

The Draft Tasmanian Recreational Sea Fishing Strategy 2021 – 2030 (Consultation Draft) contained an action titled "**Assess options for greater recognition of recreational fishing as part of the planned review of the Living Marine Resources Management Act 1995**" (pp11). In the published final version of the Tasmanian Recreational Sea Fishing Strategy (2021-2030), this action was

modified to **“When reviewing the LMRA, emphasise the importance of recreational fishing and update recreational fisheries management to reflect the principles of this strategy.”**

TARFish is seeking formal recognition of recreational fishing in the Act in addition to emphasising the important of recreational fishing. It is TARFish’s view that there is strong support, as evidenced by the Government’s own survey, that recreational fishers are very supportive of increased recognition in legislation.

**TARFish position:**

That recreational fishers and recreational fishing are formally recognised in the new or amended Act.

**TARFish Recommendation:**

That options for greater recognition of recreational fishing are assessed as part of the planned review of the Act and documented in the White Paper so that a range of options for formal recognition are considered, assessed and then included in a new or amended act can be considered.

In support of this recommendation, TARFish provides the following additional information.

In November 2017 the Commonwealth Fisheries Legislation Amendment Bill 2017 amended the Fisheries Administration Act 1991 and the Fisheries Management Act 1991 to provide for explicit recognition of recreational and Indigenous fishers in this legislation and to require the Australian Fisheries Management Authority (AFMA) to take the interests of both these fishers and commercial fishers into account in all its decisions.

In May 2017 the Australian Government publicly released the finding of the Productivity Commission inquiry into Marine Fisheries and Aquaculture. One of the inquiry’s terms of reference related to balancing the interests of all stakeholders in fisheries, including the general community, in particular, the balance between commercial, recreational, indigenous fishing and conservation interests, and consumers' interests. A key point made in the report included the need for greater recognition of recreational fishing in fisheries management.

**TARFish recommendation:**

When considering options for greater recognition of recreational fishing in legislation, that the review committee:

- (a) Consider how recreational fishers rights and aspirations have been recognised in other Australian jurisdictions;
- (b) Takes account of the amendments to Federal legislation (the Fisheries Administration Act 1991 and the Fisheries Management Act 1991) that provide for explicit recognition of recreational fishers; and
- (c) Considers the finding of the Productivity Commission inquiry into Marine Fisheries and Aquaculture of the need for greater recognition of recreational fishing in fisheries management.

## **Purpose of 'Sustainable development'**

The purpose of the Act is to provide for the “sustainable development of living marine resources.”

Schedule 1 defines ‘sustainable development’ to mean;

*“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being, and for their health and safety while:*

- *Sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and*
- *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- *Avoiding, remedying, or mitigating any adverse effects of activities on the environment”*

The Commonwealth Fisheries Management Act 1991 defines the principles of ecologically sustainable development in Section 3A.

### *Principles of ecologically sustainable development*

*The following principles are principles of ecologically sustainable development:*

- (a) decision making processes should effectively integrate both long term and short term economic, environmental, social and equity considerations;*
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;*
- (c) the principle of inter generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;*
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision making;*
- (e) improved valuation, pricing and incentive mechanisms should be promoted.*

TARFish is not suggesting that the principles as defined in the Commonwealth legislation be adopted verbatim but has provided them as an example of how they have been defined in legislation.

There are broadly speaking six principles to consider:

1. principle of sustainable use
2. principle of integration
3. precautionary principle
4. inter-generational and intra-generational equity
5. conservation of biological diversity and ecological integrity
6. internalisation of external environmental costs

The 2030 Agenda for Sustainable Development (2030 Agenda), adopted by all United Nations (UN) Member States in 2015, established 17 Sustainable Development Goals (SDGs). Australia is a signatory to the 2030 Agenda.

SDG 14 is “Conserve and sustainably use the oceans, seas and marine resources for sustainable development”

A 2021 UN report titled “Promotion and Strengthening of Sustainable Ocean-Based Economies (Sustainable Development Goal 14)” acknowledges the difficulty in developing a definition of sustainable development but also offers some insight by providing a number of alternatives currently in use. It should be noted that the terminology used for the sustainable development of marine resources has also evolved to be interchangeably referred to as “Blue Economy” and “sustainable ocean-based economy” for example.

Several definitions of sustainable development are referenced and TARFish provides below the definition provided by the World Wildlife Fund for Nature (WWF) as it defines the matters to be included in the ‘social and economic benefits’

*Provides social and economic benefits for current and future generations, by contributing to food security, poverty eradication, livelihoods, income, employment, health, safety, equity and political stability.*

*Restores, protects and maintains the diversity, productivity, resilience, core functions, and intrinsic value of marine ecosystems – the natural capital upon which its prosperity depends.*

TARFish is not suggesting this is the ‘right’ definition but that further description is needed in the definition of ‘sustainable development.’ The reason for this is to ensure that relevant matters are considered.

It is TARFish’s view that the current definition of sustainable development is overly broad.

TARFish considers the inclusion of the precautionary principle to be implied in the development of sustainable development however it should be defined and explicitly included in a new or amended Act.

TARFish recommendation:

When reviewing the purpose and objectives of the Act that the principles of ecologically sustainable development and the precautionary principle are defined and explicitly included.

## **Objectives**

The objectives of the Act are to have regard to the need to;

*(a) increase the community's understanding of the integrity of the ecosystem upon which fisheries depend; and*

*(b) provide and maintain sustainability of living marine resources; and*

*(ba) take account of a corresponding law; and*

*(c) take account of the community's needs in respect of living marine resources; and*

*(d) take account of the community's interests in living marine resources.*

TARFish has previously provided its position and recommendation regarding explicit inclusion for recognition of recreational fishers and includes a requirement to take the interests of recreational fishers into account in all decisions. The following points regarding the objectives are in addition to this.

It is TARFish's view that the current objectives are overly vague and uncertain and open to wide interpretation. This in turn places a reliance on the Minister to interpret the objectives in any manner he or she determines.

With regard to recreational fishers specifically, the only objectives that may encompass recognition of their interests and aspirations with regard to decisions are (c) and (d).

The term "take account" does not provide any certainty for recreational fishers

Further, the terms "community's needs" and "community's interests" are not defined.

TARFish recognises that the Act cannot be overly prescriptive however, the objectives of the Act are vague and uncertain and do not provide any effective guidance or restraint on the decision-making power of the Minister, particularly when there is an absence of supporting instruments to provide the scope and definition (\*interpretation) of the objectives such as policies, frameworks, strategies, resource sharing agreements, harvest strategies etc.

**TARFish recommendation:**

It is TARFish's view that the objectives should be more clearly focussed and include consideration of;

- (a) principles of ecologically sustainable development (which include the exercise of the precautionary principle)
- (b) decisions are consistent with best practice fisheries management
- (c) maximising economic returns to the Tasmanian community from the sustainable development of fisheries – through employment, investment and royalties (for extractive commercial users)
- (d) Developing principles relevant to cost recovery (e.g. as applies in Commonwealth fisheries)
- (e) that the interests of recreational fishers are explicitly considered and protected.
- (f) ensuring decision making is accountable to each participating sector and the Tasmanian community.

The above list is not exhaustive and it is TARFish's view that there should be effective engagement with all sectors and the wider community regarding the purpose and objectives of a new Act that are informed by best practice fisheries management.



TARFish recommendation:

Effective and authentic engagement that actively seeks the views and aspirations of all sectors and the wider Tasmanian community is needed to establish the purpose and objectives of the Act and in the context of best practice fisheries management.

## **Benefit – return to the Tasmanian Community**

The report titled “*Economic and Social Assessment of Tasmanian Fisheries 2016/17*” (Ogier et al 2018) states, “*Management of fisheries is required to consider community-wellbeing (that is, make provisions for economic, social, and equity considerations) under the National Strategy for Ecologically Sustainable Development (1991), as endorsed by the Tasmanian Government.*”

The report goes on to state, “*Numerous possible social, economic and socioeconomic indicators for fisheries have been proposed (Triantafillos, Brooks et al. 2014, Anderson, Anderson et al. 2015). While the importance of social and economic objectives is widely acknowledged, economic and social performance reporting from most jurisdictions has been either limited or absent, and there is increasing interest in developing basic frameworks for the collection and reporting of fisheries economic data (Econsearch 2015).*”

***No social and economic performance indicators are identified in current policy documents for Tasmanian fisheries.***

Reinforcing points made earlier in this submission, without defining the community’s needs and interests in living marine resources coupled with the general lack of performance indicators ensures that the community’s interests and needs with respect to living marine resources cannot currently be measured or evaluated and reliant on the interpretation of the Minister.

For the purpose of this section, TARFish has considered return to the community under the following sub-headings;

- f. Ecological sustainability
- g. Economic returns
- h. Cultural and social aspects
- i. Equity

### *Ecological sustainability*

In line with points made earlier in this document, TARFish is of the view that returns to the community must provide for intra and intergenerational equity and conserve biological diversity and ecological integrity.

In this way, the Tasmanian community can benefit from the overall ecological sustainability from the exploitation of living marine resources.

TARFish recommendation:

Returns to the community consider intra and intergenerational equity and conserve biological diversity and ecological integrity.

### *Economic Returns*

Economic returns typically take the form of employment, investment, economic yield (rent) and monetary returns to the community via government royalties.

The IMAS Report titled *“The risks and benefits of a Deed of Agreement for the Tasmanian Rock Lobster Fishery”* (May 2021) clearly articulates the current issues with how economic benefit is considered in Tasmania.

Specifically, pp3 of the report states, *“Rock lobster and abalone are Tasmania’s largest wild fisheries and have had extraordinarily high levels of profitability relative to most businesses in the economy over the last few decades... around 2/3 of the gross revenue from both abalone and rock lobster was economic rent (colloquially termed “super profits”) paid from the fishery to holders of quota shares. This rent was additional to the normal business profits retained by the fishing firms. These unusually high levels of economic rent existed because of government regulations designed to reduce cost of labour and associated costs like vessel services while also preventing competition from new entrants with limits on licences and quota shares.”*

The report then goes on to state, *“This situation of unusually high economic rents going to private shareholders from a public resource is unusual because governments usually capture most or all the rent from public resources as a return to the community.*

*For example, a community return from forestry occurs through tendering access to public reserves, royalties are charged on mining, and public land is sold at market rate. Some of the economic rent from the Tasmanian abalone fishery was historically collected as a royalty although this ceased in 2015 when all three Tasmanian political parties supported reducing government income from the fishery to below the government costs of managing the fishery.*

*The situation in Tasmania of large private economic rents being generated from public wild fishery resources with no royalty payment is unusual overseas but common across all Australian jurisdictions.”*

This is extremely concerning in terms of resource management principles as the Tasmanian Government has, in effect, forgone community benefit both in terms of royalties and employment whilst prioritising economic rents to quota owners. Further, quota ownership is increasingly outside of Tasmania (over 25% in 2016) for the highest yielding economic fisheries of abalone and rock lobster which further reduces any benefit experienced by the Tasmanian community.

The report titled *“Economic and Social Assessment of Tasmanian Fisheries 2016/17”* (Ogier et al) states, *“rents from the (rock lobster and abalone) fishery are unlikely to be invested to the benefit of the Tasmanian community if they are paid to quota owners interstate or overseas.*

The report goes on to state, *“Efficient production is pursued in most parts of the economy to keep businesses competitive and viable. More efficient firms can often increase production and employment. This is not relevant in Tasmanian fisheries because production is controlled by the TAC not the efficiency of the fleet. The presence of large private rent payments in Tasmania’s abalone and rock lobster fisheries demonstrates that employment could be far higher without affecting viability of*

*harvesting operations. However, this is considered undesirable by the Tasmanian Government because they have prioritized the creation of positive economic yield."*

TARFish notes that employment could be far higher without effecting viability of harvesting operations and is supportive of increased employment in fisheries.

Additionally, the Government has for the most part not required the commercial sector to invest in research and sustainability initiatives in addition to regulatory costs, royalties, and any activities currently funded by the Tasmanian or Commonwealth Governments.

**TARFish recommendation:**

In recognition that living marine resources are a Tasmanian public asset, that the returns (benefits) to the Tasmanian community are defined, set out in policy and evaluated regularly. TARFish encourages consideration of direct community benefits such as royalties and explicit protection of employment for fisheries that have positive economic yields and applied through the act as well as rules, management controls and harvest strategies.

*Cultural, social and equity aspects*

Access and quality of recreational fishing are strong social and cultural aspects of managing living marine resources with one in five Tasmanians (over 100,000) undertaking recreational fishing each year.

As the Discussion paper notes, *"Tasmanians have a high affinity with the ocean, and it is an important way of life."*

Measures of social and cultural aspects can include: participation rates, avidity (amount of time spent fishing), recreational sector expenditure (economic contribution), employment supported by recreational fishing, general health and well-being, as well as less tangible values such as spending time with friends and family, and being outdoors.

It is TARFish's view that calculating the costs and benefits from living marine resources may vary from fishery to fishery and region to region.

Mechanisms to capture, monitor and make decisions based on these values include management plans, resource sharing agreements and harvest strategies.

The report titled *"Final report on the Review of Tasmanian Abalone Harvest Strategy"* (Little 2021) states, *"A harvest strategy outlines management control of a fishery and the reasons for it. Harvest strategies specify active periodic control mechanisms, in contrast to more passive "set-and-forget" management actions such as size limits, and marine reserves. They conceptually sit within a broader fishery management plan, or management strategy. Harvest strategies incorporate data collection procedures, and ultimately specify formal rules for translating data into management actions. They need not apply only to catch controls, and have been successfully applied to input controls, such as effort.*

Maintaining access to recreational fisheries at a level desired by the sector is a core social and cultural value.

**TARFish recommendation:**

That all sectors have the opportunity to participate in the development of harvest strategies and that there is active consideration of their cultural and social value with particular regard for preserving access for recreational fishers at a level that is commensurate with their current participation and provides for future aspirations for each fishery.

Cultural and social aspects can include levels of employment as identified by Ogier et al (2018) who states *“Changes in the numbers of people employed in the commercial harvest sector is of interest to regional areas because it can influence social and economic benefits at a local communities level.”*

Interestingly, recreational fishers have many shared values and affinity with commercial fishers. The high levels of engagement on social media between the two groups is one measure of this. The two groups share a strong affinity with the ocean and there are many instances where commercial fishers are also recreational fishers. Anecdotally, it is noted that many recreational fishers, and the Tasmanian community at large, will seek to engage with commercial fishers as they come into ports and wharves. This type of interaction is part of the cultural values placed on these fisheries.

It therefore follows that regionally based commercial fishers add to the cultural benefit of living marine resources and considered a ‘value’ under living marine resources management.

TARFish recommendation:

Enabling employment at a local community level through living marine resource is considered as a community benefit.

Building on this, Ogier (2018) also identifies availability and consumption of locally purchased seafood as a social benefit but noted that data on levels of local purchase and consumption of fish commercially harvested in Tasmania is not available. Particular species may have greater social and cultural value. Species such as Flathead and Striped trumpeter, Rock Lobster, Scallops and Abalone may have some cultural value to Tasmanian consumers due to their local iconic status and their traditional consumption at key festive occasions.

The report (Ogier 2018) states, *“The majority of Abalone and Rock Lobster product is sold interstate and overseas. Sales to local (Tasmanian) markets were less than 1% of Abalone and 13% of Rock Lobster in 2015/16.*

*Availability of Scalefish fishery products to local consumers has decreased from 2000/01 to 2015/16 due to the decline in catch by more than 60% across this period.*

TARFish recommendation:

That the availability of locally caught seafood is a consideration in the review.

## **Resource sharing and sectoral allocation**

It is TARFish's view that the recreational sector has been undervalued in resource sharing as experienced by continually declining bag and possession limits and the imposition of boat limits and shortened seasons. In many instances, it is considered by recreational fishers that these "cuts and restrictions" have been driven by an overweighting of commercial interests and an undervaluing of recreational fishers generally.

The Tasmanian Government has committed to resource sharing arrangements for key species. Specifically:

- Developing an overarching fisheries resource sharing policy framework to guide harvest plans and other management instruments. The policy framework will apply to all resource users and contain criteria to guide allocation assessments.
- Guided by the resource sharing framework, develop resource sharing arrangements that include (a) recreational only fishing areas (b) allocation arrangements for priority shared recreational species. These will include rock lobster, abalone, sand flathead, calamari, scallop, King George whiting, snapper and yellowtail kingfish.
- Include recreational fishing performance measures in fishery harvest plans such as stock health and fisher satisfaction.

TARFish notes that there is only one resource sharing agreement currently in place, for rock lobster. The experience of recreational fishers is that whilst they support the resource allocation, they have not been enabled to exploit the allocation sufficiently taking half or less of their allocation annually as a result of other management controls. The ability for recreational fishers to distribute effort is much lower than for the commercial sector due to safety and proximity to homes and shacks. Although not as effective for recreational fishers currently, it is expected that improvements to resource allocation and facilitation of access to that allocation would be improved by having a framework for resource sharing included in legislation, the development of resource sharing agreements and harvest strategies.

TARFish recommendation:

TARFish supports the inclusion of a resource sharing framework and agreements in legislation.

The Queensland Sustainable Fisheries Strategy (2017-2027) identified the minimum requirements for a resource sharing policy, they are:

- A transparent and repeatable process with clear reasons for decisions
- Opportunities for stakeholders to have input, with a particular requirement for engagement with affected stakeholders
- Criteria for when and how to explicitly allocate fisheries resource access
- The value (economic and social) of the fishery or resource to the state
- A method to adequately quantify the benefits to the community
- Solutions that are cost effective and capable of being implemented (regional considerations will be taken into account)
- Specific consideration on the Indigenous sector allocations

TARFish recommendation:

A review of existing resource sharing policies and frameworks be undertaken as part of the legislative review and that a paper is published outlining the key findings and recommendations to assist effective stakeholder engagement in the process of developing the framework in Tasmania.

## THEME TWO: FISHERIES MANAGEMENT FRAMEWORK

### **Management of Fisheries**

Recreational fishers are seeking greater participation in the management of fisheries and TARFish notes that under the current management framework it is effectively a ‘command and control’ model with the Government taking responsibility for almost all management decisions. Whilst there is some legislated consultation, TARFish does not consider the current management framework to have progressed to a consultative model.

Ideally, living marine resources management in Tasmania should be progressing towards a collaborative model in the medium term.

Some options to consider this further is explored under the section titled “decision Making Powers” later in this document.

**TARFish Recommendation:** A review of options to progress to a collaborative model is undertaken as part of the legislative review and published.

### **Current management framework**

Harvest strategies are a contemporary method of fisheries management that increases the transparency and objectivity of decision making, including the setting of the Total Allowable Catch (TAC).

TARFish has long been concerned that TAC setting has been a deeply politicised activity and relies on the Ministers interpretation of scientific information and the submissions of relevant fishing bodies.

A recent example of this is the setting of the Rock Lobster TAC and commercial catch cap for the East coast Stock Rebuilding Zone. The decision, on its face, appeared to be inconsistent with the stock assessment and modelling for stock recovery (scientific advice) and the determination was made via a media release unaccompanied by a statement of reasons. This demonstrates the lack of transparency of guiding information required to inform the Minister’s decision.

Therefore, TARFish strongly supports the use of harvest strategies to provide a structured framework to guide decisions that is also open and transparent.

It is important to note that harvest strategies currently have no legal standing under the Act. It is TARFish’s view that harvest strategies should form part of the regulatory framework within management plans (i.e. rules).

TARFish recommendation:

That the review give consideration to the legal enforceability of harvest strategies.

TARFish notes that the procedures for making or amending a fisheries management plan are complex and can be time consuming. However, they provide important checks and balances on the decision-making powers of the Minister and provide clarity for resource sectors.

In addition, rules and management should protect the sustainability of the fishery and ensure its smooth and predictable operation. TARFish notes that eight out of 19 (42%) of Tasmania's assessed commercial fish stocks are classified as having depleted or currently depleting stocks. If the rules and management plans were operating as they should, it is unlikely that such a high number of fisheries would be assessed as depleting or depleted.

TARFish notes that procedures for making changes to rules and fisheries management plans can be time sensitive and may not be as responsive to immediate and emergency needs. In many instances, this would be alleviated by applying a harvest strategy and making it legally enforceable. It is also likely to result in management decisions being taken earlier and applied with the precautionary principle.

TARFish recommendation: A legally enforceable harvest strategy may result in management decisions being taken earlier and applied with the precautionary principle therefore reducing the need to change management plans.

## **Role of science and research**

The Discussion Guide identifies that *"the Act is silent on the weight or significance of scientific advice and evidence in decision making"* and goes on to state *"the precautionary principle is not provided for specifically in the act."*

As discussed in section 1 of this submission, TARFish supports the Purpose and Objectives of the Act explicitly include the principles of ecologically sustainable development (which includes the exercise of the precautionary principle).

TARFish recommendation: the inclusion of the weighting of scientific advice in decision making and inclusion in harvest strategies should be considered.

## **Consultation on fisheries management**

As a certified fishing body under the Act, TARFish takes it role to adequately represent the diverse views and interests of the recreational fishing sector seriously.

TARFish is currently undertaking a research project that will include examination of the approach to consultation in a number of jurisdictions. One of those jurisdictions is Western Australia and TARFish



encourages the review committee to consider the following excerpt from *The Overseas Catch (The state of recreational fisheries management abroad)* (Bess, 2017).

*“The (Western Australian Government’s) integrated management approach also led to a substantial consolidation in the organisations that represent the commercial and recreational fishing sectors.*

*The Fish Resources Management Act 1994 had led to the establishment of three statutory ministerial advisory committees for rock lobster, aquaculture and recreational fishing.*

*The recreational advisory committee alone was supported by 12 regional advisory committees. Non-statutory advisory committees were also established for certain fisheries, along with other representative organisations and individuals. **Given this broad spectrum, the advice the Minister and/or Department received was often conflicting, which led to protracted consultative and decision-making processes. (TARFish emphasis)***

*Concerns about the costs of supporting these representative organisations and various consultative processes led to the Minister amending the Fish Resources Management Act 1994 in 2010. This amendment removed the three statutory advisory committees, while retaining discretion in establishing non-statutory committees.*

*Beginning in 2011, the Western Australian Fishing Industry Council (WAFIC) and the Western Australian Recreational and Sport Fishing Council (Recfishwest) became the recognised peak bodies or main sources of coordinated advice for the commercial (including pearling and edible aquaculture) and recreational sectors, respectively.*

*While both organisations had been part of consultation processes previously, **under new service level agreements with the Department, WAFIC and Recfishwest established their own sector and regional consultation processes, including public meetings. Their agreements also include provisions for developing management plans and advising on the allocation of resources, thereby making them the central points of contact and referral for sectoral issues. (TARFish emphasis)***

It is TARFish’s view that the review of the Act provides a once in a generation opportunity to move toward genuine integrated management approach that operates as a collaborative model of operation that involves genuine public consultation with recreational fishers undertaken by their peak body.

TARFish recommendation: That the review committee consider the final report of FRDC research project *An investigation of recreational fishing peak bodies in Western Australia, Victoria and Northern Territory to identify insights into models of success.* (Project Number: 2021-081) to identify opportunities to progress to a collaborative model.

## **Decision making powers**

As the Discussion Paper notes, almost all decision-making powers reside with the Minister for Primary Industries and Water. TARFish identified in previous sections the risks associated with those decision-making powers, specifically;

- a. No requirement to provide a statement of reasons when a decision is made



- b. The absence of harvest strategies (except abalone) and other binding documents such as a resource sharing framework to inform and guide decisions
- c. The potential for political influence of decisions
- d. No effective review or appeal rights to decisions unless through the Resource Management and Planning Appeals Tribunal (RMPAT) or in some instances the parliament (for rule changes)

As described in earlier sections, TARFish is of the view that there is currently a once-in-a-generation opportunity to an integrated management approach that provides equity and certainty of access, is guided by sustainable development principles.

TARFish recommendation:

The Review committee consider options for;

- (a) Increased transparency of decision making
- (b) Reduction in potential for political influence
- (c) Options for effective decision review provisions
- (d) Inclusion of harvest strategies as legal instruments

The Review Committee consider other models of operation that considers the final report of FRDC research project *An investigation of recreational fishing peak bodies in Western Australia, Victoria and Northern Territory to identify insights into models of success*. (Project Number: 2021-081) to identify opportunities to progress to a collaborative model.

## **Developing new fisheries**

It is important that the precautionary principle is applied in all fisheries management and especially for emerging fisheries. This may include: specific prevention of commercial activity, limiting catch by the commercial sector, and 'no-take' in mainly recreational areas until there is sufficient certainty of the size and nature of the emerging populations.

TARFish position:

TARFish supports protecting access for recreational fishers to emerging species such as snapper, king fish and King George whiting until there is sufficient certainty that the population can sustain a commercial sector and at what level.

## **Joint Management**

In some fisheries where there is strong connectivity of populations (e.g. Bluefin Tuna) or reliance on recruitment (e.g. Rock Lobster) across a number of jurisdictions, a regional management to the fishery should be undertaken. TARFish notes that such provisions exist under Section 162 of the Act but that no such agreements are in force.

TARFish recommendation: that provision for inter-jurisdictional agreements remain in legislation

OCS gives Commonwealth jurisdiction in Tasmanian waters to species such as school and gummy shark, Tasmanian based fishers are permitted by-catch provisions only. By contrast Tasmania has management jurisdiction over species such as Rock Lobster, striped and bastard trumpeter to 200 nm.

In the case of the trumpeters Commonwealth licence holders are permitted by-catch only, however the Commonwealth do not always follow Tasmanian regulations for trumpeters, eg they do not recognise the spawning closures. This has or may cause for conflict within those fisheries.

TARFish recommendation: where possible the Act works towards harmonising management for shared stocks

### THEME THREE: REGULATORY FRAMEWORK

#### **Characteristics of the regulatory regime**

Tasmania's living marine resources are a public asset and as such should have direct government regulation, particularly in the context of maintaining ecological sustainability and biodiversity. There is significant risk in regulation that could be characterised as "self-regulation".

TARFish supports direct Government regulation in the context of a genuine integrated management approach that operates as a collaborative model of operation.

TARFish has concerns that the current supporting regulatory framework (e.g. policies, strategies etc) to apply the regulatory framework may limit the 'adequate support' of the objectives as they are currently. Therefore, TARFish does not support the decision-making powers of the Minister in their current form.

TARFish supports changes to the objectives to better reflect contemporary living marine resources management and sustainable development principles (including the precautionary principle)

TARFish recommendation:

The Review Committee sets out the features, benefits and risks of the named models included in the discussion document and provide publicly so that an informed view can be reached by stakeholders and the wider Tasmanian public.

#### **Consideration of input and output controls in best practice**

The Commonwealth have moved to output controls (market driven) but it is becoming clear that they don't always deliver the best social (and economic) outcomes.

Consideration of controls should be assessed against the policy and regulatory framework that should be sufficiently explicit to identify the outcomes being sought.

TARFish recommendation: for the Government to undertake a review and advise options regarding “best practice” of input and output controls.

## **Fees, charges and levies**

Recreational fisheries management has been supported by licence fees for specific fisheries and fishing methods. In 2019/20 licence fees were obtained from 19,370 recreational licence holders, the bulk of which were for recreational rock lobster and achieving gross revenue of \$1,247,845. After deducting the \$255,000 contribution to consolidated revenue, \$992,845 was placed in the Fishwise Fund.

These funds have not been used exclusively for the specific management of the licensed fisheries. The funds raised cross-subsidise a range of activities to support recreational fishing generally including: Designing, developing and distributing communication products; Designing, printing and distributing 42,500 copies of the Recreational Sea Fishing Guide, Distributing fish measuring rulers, and Producing Regional Fishing Map pamphlets (aka Hot Fishing Spots).

TARFish does not dispute the legitimacy of the activities but is concerned that the burden of their provision is placed on less than 20% of recreational fishers.

Tasmania’s recreational fishers make an important contribution to the Tasmanian economy and particularly regional and coastal communities.

### **TARFish position:**

TARFish does not support the use of specific recreational fisheries and fishing methods licence fees being used to cross-subsidise a range of general recreational fishing activities within the department. It should be used exclusively for the management of that fishery or gear type. If full cost recovery has been achieved then licence fees should be reduced.

As noted in previous sections, TARFish is currently undertaking research into other jurisdictions and will examine fees, levies and charges in other jurisdictions.

TARFish recommendation: That the review committee consider the final report of FRDC research project *An investigation of recreational fishing peak bodies in Western Australia, Victoria and Northern Territory to identify insights into models of success*. (Project Number: 2021-081)

Overall, it is TARFish’s view that the Government should develop a policy of cost recovery across all sectors and notes that a policy for cost recovery exists for the Commonwealth fisheries.

TARFish recommendation: That the Government develop a cost recovery policy

## **Offences and penalties and enforcement powers**

The Discussion Paper asks if “the current penalties for fisheries offences are appropriate”

As noted in the first section, TARFish is concerned that there is insufficient resourcing to give effect to the Act with regard to offences and application of penalties.

When the State Government surveyed recreational fishers in 2020 there was clear support for "having a greater police presence on the water" and many respondents indicated they'd like to see greater *compliance presence at various locations - in order of suggested preference, these were boat ramps, jetties, on the water, and along shorelines.*

TARFish recommendation:

That the review committee consider options for alternative models of fisheries enforcement and required resourcing based on best practice fisheries management and publish.

## **Review of decisions**

The review provisions are currently inadequate as the majority of decisions are taken by the Minister and then the review of a decision is also undertaken by the Minister. Given the lack of bounding documents such as harvest strategies and resource sharing frameworks it is unlikely that a “review” of a decision is likely to change it as the person that made it reviews it using their own interpretation of broad principles.

TARFish recommendation: That the review committee consider the question of the appropriateness of the current “review of decision” in the context of best practice and provide publicly.