Review of the Living Marine Resources Management Act 1995

"The legislative framework enables the administration, management, and protection of living marine resources and the marine environment. That legislative framework must be agile and responsive to challenges, support effective and efficient decision making and support emerging marine environmental management issues as they arise. "

We need to acknowledge the failures of the current legislation to protect both the marine environment and the species that live there. The impact of natural and manmade influences on marine ecosystems, in Tasmania, has degraded habitat and depleted biomass; if this review is to be of any value, we must first recognise the failure of our current systems and commit to developing legislation and practice that will see genuine change in attitudes and outcomes. The naming of the Act should be a consideration, the term resources strikes to the heart of the problem with ecosystems protection as it infers profitable intent. Google defines resources as *"a stock or supply of money, materials, staff, and other assets that can be drawn on by a person or organisation in order to function effectively."* If we continue to look at our coastal ecosystems as resources, that can be drawn upon to the point of failure, we are dooming the future to the same flawed mentality and outcomes that has driven the failures of the current Act.

Decision making has been focused on commercial opportunity, engagement has been too narrow in its focus and consultation has intentionally diminished the voice of those that would seek a higher level of protection. It is fair to say that the higher the dollar value of the fishery the more likely it is to be depleted, there is no doubt that commercial fishing management has failed the Tasmanian community, the driver of profit through extraction is a hard rock to budge but one that is entirely necessary to move away from. The participation in, interaction with and enjoyment of our coastal waters needs to adapt to the changing demographic of Tasmania… The idea that live export of high value catch is sustainable or returning the best value to Tasmanians is now so outdated it is contemptuous. This review needs to be the start of a transition of fishery and habitat management where the value of every creature and plant removed from or retained in our coastal waters is maximised, we need to develop a management plan that ensures abundance and resilience. Downstream and associated economies as well as recognition of value that is defined in other than dollar terms needs to bring a balance to decision making that will see significant change to the current price per kilo mentality that drives failure.

We have an opportunity now, the discussion paper is an enabler for change, while it is disappointing the terms were not more broadly consulted, the metrics for change are available. The Tasmanian Amateur Sea Fisherman's Association (TASFA) encourages you all to think away from your past and open discussion to new ideologies and changes that will stem the degradation and allow, to the extent possible, return to biomass levels that will be resilient to change.

THEME ONE

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 past 26 years have seen significant reduction, in percentage of virgin biomass, of many high value catches across Tasmanian fisheries, as described we have all but lost our Giant Kelp, we're seeing large scale range extensions of many species. The range extension issue is double edged in that some species, like Snapper, Kingfish and King George Whiting are welcomed and others like Centrostephanus are linked to widespread adverse outcomes for coastal ecosystems. If we set aside

the range extensions, which are reportedly associated with warming ocean currents, and subsequently very difficult to adapt to; we still have a dim picture where overfishing has been allowed. So, in a nutshell no the Act it's application and associated management practice has failed.

The Act has numerous parts where decision making by the minister responsible is enabled to agree to terms outside of the legislation. It seems improbable that any future legislation will be successful if there is opportunity for ministerial decision making to bypass the intent of the legislation. The Act can be improved considerable by restricting any decision making to being consistent with the spirit and intent of the Act. So any part of the current Act that enable the minister responsible to enter into deeds of agreement, exempt a person or class of persons from any part of the Act should be removed.

Admittedly this focus is on fishing related activity but there should also be a fully independent body created to review and make recommendation on the licencing of marine fishing activity. The independence of the body can be debated but needs to realise the importance of not for profit engagement in Tasmanian waters and so any representation needs to include a balanced and broad representation from all communities that hold an interest in our coastal waters.

What do you think will be the major challenges for the sustainable management and development of Tasmania's living marine resources in the next 20 years?

The biggest factor is an increasing global population, or in other words the human factor… Our fish have sustained life in Tasmania throughout our history. Over time the development of new fisheries has focused on the increasing value of what we extract, underpinning fishery participation is export often whole and/or live fish exports have seen limited value add to our product. The pressure brought by the human factor is measurable through a single focus of extraction… the challenge we face is to bring about a higher value per fish through downstream process, the obvious is the restaurant trade but that is limited especially when considered against the aggregated sum of fish extracted from the waters surrounding Tasmania.

No doubt there is tradition and wealth associated with commercial fishing but there is also failure… however big the challenge shifting focus from mass extraction to experience and value add is necessary if we're to realise a future less likely to include demand for extraction beyond what the fishery can sustain. As a protection measure resourcing an emerging industry that values the ecosystem, in its current state, is necessary. Tourism, science, high class food are areas to improve the dollar value of each fish, those that add value without extraction need to be promoted…

TASFA note the terms of reference don't restrict comment on the exploration and extraction in relation to mining activity and also the discussion paper is silent on the matter… suffice to say the pursuit of the dead can and does have a dramatic effect on the living and so the protection of living marine environment is intrinsically linked to the range of other industries that have an effect… The issue of seismic testing has been raised on numerous occasions and reports drastic reductions in commercial catch immediately after testing occurs. My understanding is there is no compensation payable to others affected by the activity. In itself this is flawed when considered against quota management but also removes the option to ensure the value of the environment is demanded from anyone who impacts the biomass of any fishery. At present there is no cost to the mining industry so planning and actions are not subject to a deterrent cost. TASFA believe the Act should include a cost for impact and a demand that any impact be measurable and costed including compensation payable for each stakeholder prior to and as a condition to approval.

The planning for quota limits is flawed, the simple test being the percentage of virgin biomass, we have seen some fisheries reduced to under 10% in some areas of our state. The LMRM Act has been in place for 26 years and the reductions I'm talking about have happened in that time. If we look at abalone the eastern zone is listed, in the discussion paper, as sustainable… Does this mean that management planning enabling fish down to the point of failure followed by area closure is sustainable? The Act needs to have a formula coupled with credible real time data that can be used to manage fisheries. The boom bust cycle of fisheries management needs to be addressed through this review.

The management practice of individual transferable quotas is short sighted the deed of agreement associated with the abalone industry is worse… the management licensing and regulation of our fisheries needs to be flexible and adaptable to change; any move to enable ownership or permanent right of access needs to be put to bed. The dramatic changes we have witnessed to our coastal ecosystems is not able to be managed quickly enough through current legislation, plans and rules and a part of that is driven by the sense of entitlement created through quota ownership.

As an example a few short years ago, there was significant media interest in the setting of the Total Allowable Catch for Abalone in Tasmanian waters. The industry players found themselves in disagreement on what should be the focus for the fishery. One player was advocating for a much reduced TAC, reportedly in favour of building biomass with better return achievable in years to follow. Others within the same industry group voted to make changes to the board of the Tasmanian Abalone Council Limited… in the meantime we've seen the stock on the west coast classified as depleted and areas on the east coast closed to commercial fishing. The outcome seems to add weight to the proposal to reduce allowable catch those few short years ago, but of course that didn't happen… word on the street is that at least one quota owner, who is reported to have no actual interest in the fishery outside of a commercial/investment interest; voted for the maximum quota allocation with the reason given as she had to fund her 60th birthday trip to Paris. Street talk is difficult to verify or hold to account but the ridiculousness of the story pings at my curiosity, as the outcome for the fishery has been one of depletion.

It seems incredible that with all the complex science available, the analytical capacity of both the department responsible and IMAS that we have failed to find an allowable catch that doesn't place our fisheries in danger of collapse. The above story seems credible when considered against the weight of information available to decision makers that should have informed a lower TACC. The weight of influence applied by those who's involvement is to profit will inevitably drive poor decision making if that influence is not balanced by others who's preference is to protect our fisheries.

Clearly there needs to be significant change to the way quota allocations are made and how total allowable catch decisions are agreed. And even more clearly those decisions need to include non-commercial interests that are empowered to bring a more balanced approach to stock protection. There should be a clear and unambiguous intent included in the Act that this Act should serve as an instrument to enable public confidence in decision making and long-term outcomes for areas covered by the Act. All decisions and actions must be in the interest of Tasmanians and must also be made public prior to any final decision being made, be subject to review and have included a shared decision making process inclusive of all interested stakeholders.

There is a lack of understanding of what sustainable means perhaps the biggest challenge is to find agreement on the meaning of the word so frequently used to describe how our living marine ecosystems are managed. On page 13 of the discussion paper there is a statement about a measure of success rather than a classification of sustainable. It is no wonder many Tasmanians are frustrated

with fishery management; as the indifferent reliance on meaningless terms that are designed to promote "well managed" rhetoric that can be more accurately described as abject failure. Cutting the spin associated with government language is an area for change! In line with the interpretation of sustainable having a shared and agreed understanding of value needs to be included…

The terms and interpretation of word can be agreed through a citizen jury. A group of interested parties, not hand picked by the minister, tasked with finding universally agreed meaning to the words that inform the Act is necessary!

How do you think the legislative regime will, or should, respond to those challenges?

The legislation in itself is not the only factor, political process and a lack of confidence from department and representational groups to promote the conversation and encourage participation in decision making is also a factor. The process of consultation has long been a challenge for decision makers, there needs to be a broad acceptance that differing views are present within the Tasmanian Community but also that those views should be heard, discussed, considered and included in any decision document or explanation to support future process or practice… My belief is the lack of engagement is due to preconceived ideas or agreements being responsible for outcomes and effective consultation would limit the probability of the current thinking holding sway in decision making. How should we respond, simple, open the conversation, enable transparency demand credibility through open uncompromised science, stakeholder influence should not be restricted...

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 discussion paper has not focused on cultural or community engagement to this point. The value of recreational fishing and other recreational pursuits linked to coastal waters need a higher level of recognition in terms of influence, acceptance of economic drivers and non-monetary value associated with being a resident of this state. Much of the language used throughout this discussion paper infers a sole focus on commercialisation… the majority of people who access our coastal waters do so for fun (recreation) the value of having well managed ecosystems seems to be lost on those responsible for management and that needs to change!

An objective of the Act should be to describe the intended outcome for our marine environments in the long term. The word development has connotations that are unfavourable to some, development as experienced with the introduction of Salmon Farming to Okehamton Bay is seen by many recreational fishers, shack owners and other Tasmanians as having a negative effect on the natural value of the bay. The value of recreation has also been diminished in the area. No doubt there has been some value achieved but if considered across a wider demographic than aquaculture the overall benefit to Tasmania may well be a negative.

The point here is to enable a clearer picture of what development should look like and that picture needs to be forethought by as many as necessary to bring about a solution beneficial to Tasmanians!

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

Community is a very broad term, the broadest cross section of the Tasmanian community is undefined but in simple terms includes all residents, in terms of access to our fisheries it includes, as a potential, everyone including tourists, visitors and anyone else who is present at any given time. There is no restriction to being able to fish in Tasmanian coastal waters, so community remains

undefined and so bringing discussion on interests is difficult. TASFA believe most Tasmanians want management outcomes that see benefit of Tasmanian resources retained in Tasmania for Tasmanians. Tasmanians want to see a maintenance of the status quo i.e. the same or improved water quality, fish diversity, fish abundance and habitat preservation. Tasmanians are also interested in limiting, to the extent possible, adverse outcomes associated with pollution, nutrient loading, seismic testing, warming temperatures and anything in the future that may reduce the overall value of our marine environments.

A part of the Tasmanian community access our coastal waters for food gathering i.e. fishing TASFA believe the availability of all edible fish to that community is important… TASFA also believe that any management plan must preserve the right to fish and the right to a fair share of all fisheries to the Tasmanian community as a priority above any other entity. The discussion needs to include a share of fisheries that is higher than the remaining biomass of some…

Could the Act's objectives be strengthened with regards to Aboriginal activities and connection to sea country and sea country values?

Yes First Nations need to be recognised…

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?

Division 7 clause 99 needs to be removed… fishery management needs to be in general terms and the ministerial powers should be limited through this legislation. The length of any agreement made under this Act needs to be limited. TASFA use the abalone deed of agreement as an example of ministerial power being exercised beyond reason and beyond the best interests of fishery management adaptability. The 28 plus 20 year interval sets a very inflexible management plan, what hope do we have for adaptability if we are stuck with the decisions of previous era's without hope of change. The changes we are seeing through climate change will need a flexible and dynamic system of management, not lifetime agreements without the ability to modify, adapt, cancel or change to suit an environment that will demand adaptability far more dynamic than what is available through initiatives like the Abalone deed of agreement.

Provisions should be included to better protect our environment, consideration should be given to any access, lease, right of passage etc. whereby the impact of operations is not to substantially affect the integrity of the ecosystem in the immediate or wider vicinity of the area declared.

There should be an additional part to the act giving priority and ownership of all state fisheries to Tasmanians including a right of first access and a protected share. There should also be safe limits set where commercial fishing is stopped if a fishery falls below a nominated percentage of biomass.

The Act needs to build influence on the commonwealth waters around Tasmania. There is no logical interpretation of why 3 nautical miles defines state waters. Management practice, rules and regulations need to be consistent for each species throughout its range, given the close relationship between state and commonwealth waters when managing species like tiger flathead and Tasmanian Trumpeter there is a requirement for consistency.

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.

There needs to be consideration of natural value or the value that cannot be expressed in dollar terms. Social infers companionship and is limited through current legislation to human assessment and so is probably the wrong word for the purposes of protection. Retained or ongoing value is important if our legacy is to benefit future generations.

The balance sheet calculations should make sense in terms of return to the owners of the resource i.e. the Tasmanian people. Any commercial activity needs to include a cost for participation and an additional, variable, cost for each fish/kilogram removed.

The benefit of no-take needs to be considered against the health and abundance of each fishery and included in the interpretation of value.

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?

Any commercial extraction from Sate controlled waters needs to include a return to the Tasmanian people. The fees associated with access or extraction need to be well considered as they will be an important tool to effectively manage. The intent is flexibility so denying long standing arrangements or fixed fees should be a consideration.

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

No, we have seen wholesale selling off of Tasmanian owned business to overseas entities which includes access rights and leases to our waters. The accountability detailed in the character test should be adapted to include natural persons, partnerships, corporations, trustees, incorporated associations, and Aboriginal corporations.

The identities of corporations and shareholders should be known to fisheries managers, particularly the percentage of foreign ownership of our fisheries is important. If investment funds or other entities with a "veil" around corporate identity are apparent the legislation should provide a mechanism to ensure complete and transparent understanding of who has influence and under what arrangements that influence is held.

Prior to any commercial operation being publicly listed there should also be a value test that brings scrutiny to the value for the Tasmanian Community. TASFA believe Tasmanian owned companies or endeavours, however described, are more valuable to Tasmanian than the same owned by overseas entities.

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

The legislation should be flexible and adaptable and include provision to limit, change or remove access and extraction rights. Individuals within a corporation can be held individually responsible under health and safety legislation and it may be worth considering a similar arrangement here. The risk v reward in decision making needs to be clear within legislative intent including penalties that may be applied. If we set compliance at a high standard the penalties for noncompliance should be sufficient to deter boundary seeking efforts from those wanting to extend their profit margins.

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

They should be Tasmanian residents with demonstrated intent to return profits to Tasmania.

Should the legislation include a framework for resource sharing?

Yes, absolutely. In addition the sectoral allocation needs to be equally managed, using the Southern Rock Lobster share arrangement as the example, the commercial sector have been granted carry over provision on the few occasions that they have not caught or over caught their allocation of TAC while the recreational sector has been subject to increasing restrictions (season length reductions, bag limit reductions, transit provisions etc.) that has limited the recreational catch to well below the legislated allowable take. If there are provisions set to limit catch, they need to be equally applied across all sectors!

The framework should also limit the power of the minister to select participants on advisory bodies indeed the framework should enable transparency of process used to select any person relied on to inform any decision made under the Act. In relation to resource sharing having an independent body genuinely representing their identified interest is important. TASFA believe there is insufficient representation on advisory bodies now and also that the hand picking of members by the minister gives fuel to assertions of secrecy and skullduggery.

Additionally the representation of various interest groups needs to be balanced, there is a great imbalance present now through commercial entities being able to commit paid time to promote their position. Consideration needs to be given to making equal the process of representation and influence i.e. equal in time with the minister, grant amounts, participation on workshops, advisory committees etc.

If yes, what elements might comprise such a framework?

Any framework for sharing should include a threshold where fishing stops if biomass falls below a set limit, additionally there should be a percentage of tac allocated to each sector. Any sector who does not catch their allocated allocation should carry forward a priority for retained participation in the fishery.

The question of percentage allocated to sectoral interests is important… particularly when recognising the no-take sectors, those that participate for non-commercial reasons are less likely to fish a species to collapse. There is sound reason to maintain a non-commercial allocation to interested parties. The most accurate indicator of fishery mismanagement is the reduction of recreational participation, so to ensure appropriate management the non-commercial participant in any fishery must have their share allocated at a priority higher than the commercial sector. The share allocated should be sufficient to support the traditions, culture and food security aspects for each species for each sector. There is no single percentage that will fit the needs of all; 10% of the rock lobster catch is not an indicator if the conversation were in relation to sand flathead the percentage allocation to the recreational sector may need to be as high as 100%.

Is the Act easy to understand and follow?

No, legislation is, generally speaking, confusing for the lay person. The complexities that surround fisheries management are not just related to the legislation but also the rules, regulation and interpretations made against the Act or other associated acts. The time required to understand and the barriers in place to influence once an understanding is reached is off putting for many, there needs to be change to the way we engage with government, or more accurately the way government engages with the public, on matters relating to shares access and extract management decision making.

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

Earlier in this submission "sustainability" and associated confusion and frustration was addressed. As a single point the shared understanding of and agreed definition of such a well-used term is necessary. While a principles based legislative framework seems reasonable, we are placed in confusion because of the deterioration of many state-based fisheries. The management of fisheries has, in many cases, failed under a relatively simple arrangement where total catch is determined and allocated under quotas set by government; obviously there are difficulties through predation, climate change, illegal, unreported and unregulated fishing and the impacts of industries managed under separate legislation but the simple measure of restricting allocation to preference fishery health and abundance has failed due to human inaction. The overarching objectives may be the area for greatest consultation and shared decision making… making clear the intent of the legislation would seem like an opportunity to create the understanding and commitment required for success...

What is the role of legislation to support ceremonial, cultural and economic practices?

The First Nations or Aboriginal People deserve recognition and an ongoing right of access and to extract from our fisheries as do other residents of Tasmania and commercial fishers. My understanding of culture and ceremony is underpinned by my own family experiences… the rights of groups can be included in legislation however in simple terms the right of passage and future of sharing food extends to us all in some respect.

How else can Aboriginal Tasmanian communities be supported to benefit from living marine resources through harvesting and other means?

TASFA defer to the Aboriginal community and support their position whatever that may be.

THEME TWO

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

No, consultation provisions need to change, the current system implies responsibility for advisory committees and representative bodies to inform sectoral support or otherwise. Within the various associations or committees there is no process for engagement or transparency in decision making, indeed in regard to the Recreational Fishing Advisory Committee the committee is selected by the minister. For a committee to genuinely represent the sector they are accountable for there should be requirements for engagement, voting in of members, prescribed consultation with members or participants. In short the way influence is applied within decision making is significant risk to credibility and outcomes.

What improvements would you like to see?

A voting process following nomination of candidates. Removal of any influence from government or the department to pick members of advisory committees. Develop representative bodies that can demonstrate engagement with the public or sector they are responsible to. In simple terms give credibility to the voice representing each of the sectoral interests. A process aligned to the voting in of parliamentary candidates might work…

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?

No, this is evidenced by the outcomes achieved through the life of the Act.

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

The value of science cannot be understated, but for science to effectively inform decisions there must be independence, review, funding, specified criteria for monitoring, investigation and reporting and acceptance through informed communication. Alternative approaches include surveys, public forums, genuine consultation, shared decision making, working groups, workshops, engaging the public in research activity…

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

No, consultation is ineffective. I'll use the example of the Hobart based public meeting in relation to the Tasmanian recreational sea fishing strategy, a motivated group were present asking well considered and informed questions only to be shut down consistently by department representatives who refused to answer questions and refused to devote from their poorly prepared presentation plan. To be fair TASFA believe RecFAC, TARFish and the department are reluctant to consult in a way that brings understanding, informed positions and agreed responses. The bodies representing recreational fishing in particular are fundamentally flawed and serve no purpose other than to fill a name for consultative purposes, they are disengaged, unresponsive and in every way ineffective… The single most important part of this review should be to enable a strong and independent voice, unencumbered by political or commercial influence and with an equal say in final decisions to any commercial interests, to represent non-commercial interests affected by decisions made under this Act.

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

No.

What structures or mechanisms could encourage Aboriginal Tasmanian communities to share and participate in consultation and decision-making in fisheries management?

TASFA would like to see any response from the Tasmanian Aboriginal Communities prior to comment – in principle TASFA would look to support their response.

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

At some point, if agreement is not available there needs to be authority to decide. Any decision can be based on agreed principles and communicated through a reasons document. In relation to fisheries management, underpinning decisions will be what is considered, in the absence of agreement interested parties should inform their concerns through written instrument including what evidence they have for the position they hold and any reasons they disagree with alternate proposals. Decision making should be informed through appropriate consideration including science, cost, risk, value, environmental needs, social and economic needs and any other issue raised in discussion. The decision maker needs to be independent and the decision itself subject to review…

How should developmental fisheries be supported and administered under the framework for fisheries management?

Developmental fisheries should be supported in the same way as existing fisheries provided that harvest strategies and share arrangements are mandated through this review. A cautionary

approach should be used in all instances when considering initial TAC, emphasis should be on establishing a fishery that is robust and able to withstand any pressure human, environmental, industrial, predatory or otherwise.

THEME THREE

Does the current direct government regulatory regime adequately support the objectives of the Act? How else could regulatory outcomes be achieved?

No comment.

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?

Access should be clear and defined the word access in itself needs to have a clear definition. Access does not mean extraction, so when applied to coastal water users those that access the environment are not easily recognised as a stakeholder. A simple answer is unlikely to give the best result when looking to achieve the objectives of the Act.

With respect to licensing within the recreational sector the licencing requirements are limited to certain types of fishing gear and some species i.e. nets, drop and long lines, scallops, abalone and in the case of rock lobster three separate licences are available dive, ring and pot. There are many fishing activities (summarises as hook and line and spear fishing) that do not require a licence at all. Many in the recreational sector consider this to be inequitable as costs are levelled at certain activity rather than participation as a whole.

The management of fisheries needs to have easily adjusted control measures and those measures need to be applicable to commercial and recreational activity. Currently there are a multitude of Acts delineating activity that is directly or peripherally associated with Living Marine Resources additional to that there are a multitude of licences, quota and permits available through the Act and as a whole the processes, instruments and charter do not enable the level of visibility that would support a more open, transparent, fair and effective management system.

Expanding the engagement with community members to inform and support decision making is necessary. Importantly face to face meetings are an effective way to enable community decision making. The consultation process used to enable the range of licencing, permits etc. that support access and extraction of living marine resources should all be subject to a consultative decision making framework underpinned by open and unrestricted engagement with the broadest cross section of the Tasmanian community.

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

As above, clarity, consultation and wide engagement are necessary.

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

No permit provisions need to be clearly defined, there is innuendo that lobby groups, political donations etc. have an adverse impact on decision making or favour an individual want and/or desire over what should be more evidence-based decision making. Secrecy and discretion have not served fisheries management well and so should be eliminated through legislation.

How could the current fees and levy arrangements be improved?

Fees and levies should be based on the level of extraction, cost to environment, reduction in the accessible area for other users and should ensure a fair return to the State based on area occupied by leases pollution, visual impact, noise, environmental damage including suspended and transient matter.

How would you like to see charter fishing managed?

Charter fishing is interesting in that it is a mix of recreation and commercial activity. There is clearly an advantage for a charter-based recreational fisher if the intent is to maximise the catch during the day of the charter. As a starting point the recreational charter industry should be limited to all recreational bag, boat, season, gear and size limit restrictions. Additionally, the charter industry should be strongly encouraged to support limiting the catch principles associated with best practice recreational fishing.

If charter fishing operation licences are issued they should not be limited to a select few as this stifles market competition and access to the industry. There should be a fee associated with people participating in charters that supports management of fisheries and fishing.

What are you views on the levels of reporting required under the Act?

Reporting of all activity managed under the Act should be publicly available. All fisheries should be subject to reporting on percentage of virgin biomass available, fishing methods, total allowable catch by sector, total catch by sector, actual catch per area, recommended catch per area, any external influence, any identified risks during the reporting period and any proposed changes to management rules or activity.

How can the exemption process be improved if at all?

There should be no exemptions made under the Act.

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

The responsibility should be shared.

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

The licence holder and fisher with compliance checking through an independent body.

Are the current penalties for fisheries offences appropriate?

TASFA believe so, all fisheries offence prosecutions should be made public as an additional deterrent for fishers to break the rules.

How could the rules dealing with compliance be improved?

This is a very broad area and will require a lot of discussion there are lots of rules that need addressing and many that could be changed to simplify things.

Eg: shared catch, Transit zones, eastern and western regions electronic catch recording and monitoring.

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 is only a part, I'll limit commentary to the recreational sector for the purposes of this answer. Many recreational fishers are not aware of rules, many have recently arrived in Tasmania and have preconceived ideas based on what is available to them in their country of origin. TASFA believe the Act needs to include a responsibility for education and information to be provided to all participants.

What are your views about Tasmanian fisheries enforcement?

Mostly good, the police presence on water is welcomed, catch recording in its current state is effective. There are some restrictions levelled at the recreational sector that diminish the experience available. Transit provisions make no sense whatsoever and should be immediately eliminated.

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

Not answered.

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.

Digital monitoring is an option for the future as it provides real time data collection for any sector using the technology. In theory the data collected would enable better management strategies to be developed and implemented. Fisheries that are managed through area catch levels or TAC by sector could have immediate action taken to reduce over catches.

There is a stigma attached to any additional record keeping by the recreational sector which is underpinned by the history of reducing our bag, possession and boat limits under the guise of biomass protection. The belief of many being that any reduction of the recreational take has been transferred to the commercial sector.

How can the legislative design be responsive to emerging technology?

It can allow modern technology to be used.

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

Yes, as long as implementation is subject to shared decision making by any sector affected by the change.

Are the review provisions sufficient to support the regulatory regime?

No. Ministerial decision making is not subject to review. As an example the membership of RecFAC is decided by the Minister and the most recent committee was appointed without all applicants being informed of the result. Now while the limiting of information to applicants is just rude the implied outcome is that the Minister can do what ever the person wants and is not subject to any form of scrutiny, objection, question or review.

TASFA should not have to go into what an appropriate review process looks like suffice to say this legislation needs a contemporary review process.

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

Yes, the register of reviews should be publicly available.

What information should be made available on permits?

All information and activities that are required to be performed under the permit.

In Summary TASFA recommends that the following be improved through this review of the Living Marine Resources Management Act:

Biomass Protection.

Habitat protection.

Consultation and decision making.

Ministerial powers be restricted to the requirements of this Act.

Any improvement in biomass that is to be available for extraction should follow the first access principle, i.e. priority given to indigenous fishers and recreational fishers prior to consideration of commercial quota increase.

That harvest strategies and catch share agreement be made for all fisheries in Tasmania.

Enable a strong and independent voice, unencumbered by political or commercial influence and with an equal say in final decisions to any commercial interests, to represent non-commercial interests affected by decisions made under this Act.