



Tasmanian Rock Lobster Fishers Association Ltd.

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Thank you for the opportunity to have previously provided verbal submissions throughout the various opportunities made available to us.
The following is our considered position on those matters not directly discussed previously or are restated due to their importance to us.

1. The working life of a Tasmanian commercial rock lobster fisher is chronically inefficient, particularly in slower winter fishing times.
Two highly capable humans in, say, a seven day cycle at sea, including time for vessel cleaning and maintenance, can be functionally idle for the great majority of their time.
We need consideration of more access to more commercial bycatch and other fish species to allow at least some better productive use of the time of two experienced fishers, while at sea.
New legislation should ensure that, as an example, should a fishing vessel in the future have the capacity to undertake other forms of fishing, while having rock lobster pots in the water, the fisher would be able to do so without having to return to port.
The same principle should apply across all commercial fisheries, particularly the option for a Rock Lobster Fisher to catch significant quantities of their own bait.
The price of fuel is likely to stay very high for long periods of time. Fishing law should assist by not forcing unnecessary and expensive trips to port.
New Tasmanian Fisheries should be investigated in order to widen the ability of our fishers to access minor species in the areas they are fishing for Rock Lobster, in order to improve productivity levels.
Further, our Rock Lobster sector is forced to import much of its required 1000 tonnes of bait annually from overseas.
A new sardine fishery and a focus on lower-value scalefish in Tasmanian waters should be developed in order to overcome the “food-miles” issues as well as the escalating cost of bait for our fishery.

2. New laws should anticipate the future, particularly in the field of digital communications.

The current rock lobster fishery carries the burden of excessive and old fashioned paperwork, particularly the large, multiple carbon-copy catch and effort reporting book.

The new legislation should simply require the Department to provide and maintain a best available, simple, daily, onboard digital catch reporting system.

The Go Fish program for commonwealth fisheries managed by AFMA is a good example of contemporary interaction between fishery managers and their stakeholders.

3. The commercial fishing sector should not have to routinely justify its existence.

The value to the State's economy and community from the sustainable harvesting of natural food resources should be enshrined in the principal legislation.

Other than for legislated formal Marine Parks, commercial fishing should never be banned from sharing any fishery in Tasmanian waters.

Such bans breed elitist access by active, well-off recreational fishers, to the detriment of all Tasmanians who don't enjoy and health or wealth to go catch their own fish.

There should not be any capacity for "recreational-only", nor "commercial-only" zones.

Tasmania enjoys a very long coastline and it is long enough to accommodate, together, both recreational and commercial fishers for all species.

4. The ITQ system for our Rock Lobster sector should have total clarity on the matter of the separate status of the three (or any subsequent) sub-sectors.

Commercial Quota can only be sold or purchased or held for the purpose of commercial fishing. It must not be able to be acquired by any person or organisation for any other purpose.

Recreational Quota can only be held by or within the recreational sub-sector.

Indigenous Quota (or whatever more correct name is selected for it) can only be held by or within that sub-sector.

5. There exists on-going confusion between Tasmanian rock lobster catchers and processors in the area of accounting for water loss from landed rock lobster.

Processors assert that their sector pays for 15 tonnes of sea water every year, therefore requiring larger margins in the buying and selling of fish.

While it would be impossible to have a perfect system, the problem should be properly addressed in new legislation.

By continuing to ignore this issue, we continue to foster the avoidance of the reality that rock lobsters, in the time it takes them to be transported from their weighing-in at the wharf to the processor's factory, lose a discernible amount of weight, which in aggregate adds up to substantial cash value foregone.

To our knowledge, the Western Rock Lobster fishery has dealt with this problem in the most accountable and transparent way.

They separate the two different reasons for weighing fish.

(a) At the wharf, at the immediate point of unload, for the purposes of accounting against TACC quota held, and

(b) at the arrival at the processor's plant, for the purposes of paying for the more accurate, "true" weight of the fish.

It seems to us that the issue would improve by the principal legislation making a strong statement on water matters.

6. The commercial Abalone fishing sector has long enjoyed an extended Deed of Agreement. This fact has underpinned and supported the maintenance of the general market value of the Individual Transferrable Quota allocated to that fishery.

There is no logical case that exists that the Rock Lobster fishery should not enjoy the same protections and underpinning of its commercial fishery.

Further consideration of this possibility has been set aside, for now, in favour of calling for our new Commercial Fisheries legislation to provide Deed-like protection for our entitlements and rights.

This is an excellent opportunity to recognise that, in public policy terms, we are stranded by the nature of our particular ITQ fishery, compared to our sister fishery of Abalone.

We therefore ask for close consideration on this element of policy in the resultant White Paper.

7. Where, anytime in the future, a Catch -Cap, or similar process, is invoked for a particular area for biomass sustainability reasons, it should be embedded in principal legislation that the subject zone/area will only be available for access by fishery participants, commercial, recreational or Indigenous, to participate in, on the basis that they will be required to comply with all the provisions of compulsory catch reporting via any approved method.

This should apply to all subsectors in all circumstances.

In fact, it would be better public policy if the principal legislation required all participants to always account for and report the fish they have removed from the fishery, with exceptions sometimes being declared not necessary, where participant numbers are insignificant, for example.

8. On the question of whether this review should lead to amendments to the current legislation, as opposed to a whole new Act, our view is that, given some key issues relating to oddities having occurred in the relationship between the principal legislation and its subordinate legislation, we believe that there should be a whole new Act designed and enacted, staying more faithful to the key principles of Subordinate legislation in the Westminster system.

These principles do not allow rules and fisheries management changes to occur without the full democratic settings being utilised.

Only where the principle of a matter has been established in the principal legislation, would the lower level of democracy settings of the subordinate legislation be allowed to be used, on matters of detail.

Given the often controversial nature of Fisheries Management Plans alterations, such as Rules, there should be no short cuts available to any proponents of change.

On the general matter of legislation, whatever the circumstances of the recent decision of the Legislative Council to disallow two year old Abalone recreational rules, previously believed to have survived the standard period available for disallowance, it must be dealt with to ensure it cannot happen again.

The structural uncertainty that that particular decision has raised is significant and tends to be draining on general confidence levels in commercial fishing.

9. The new Legislation should provide a non-optional requirement for the Dept to publish an annual report on the state of the rock lobster fishery in Tasmania. This report should be written by IMAS in

such a way that most recreational and commercial fishers can better understand, in a timely fashion, the key drivers of decisions being considered by the Fishery's managers.

10. Fisheries Management Decisions.

The ability of the Minister to delegate key Fishery Management Decisions to senior staff needs to be carefully scrutinised.

As an example, a decision which could decimate a fleet of commercial fishing vessels is one that is best left to the Minister, who is able to consider wider implications of economic or community damage to local areas. Ministers are also able to be held to account for their decisions.

We will be watching this space carefully throughout the development of changes.

11. The TRLFA supports tough laws and rules and significant penalties for deliberate breaches of the law.

However, we are concerned at the level of strict liability issues presenting themselves in court cases which appear to be dealing with matters in the nature of a simple administrative error, in many cases with no loss of public resources.

The penalty regime, in those circumstances, appears manifestly excessive due to the lack of discretion available to the Court to recognise a lack of criminal intent.

We call for a genuine review into the need for a more scaleable decisions being available to the Courts, or, or as well, that an independent review process to consider appropriate liability issues should be afforded to anyone charged with Fisheries offences. We note that this has been spoken about for many years by both sides of politics in Tasmania, in fact it was even claimed to have been in existence, with no evidence of it ultimately available.

It may well be that the Tasmanian Civil and Administration Tribunal (TASCAT) could be tasked with pre-determining the appropriate course of matters that can currently only be determined by the Courts.

This matter is one that will benefit everyone in our Fishery and therefore should be high on the list of necessary changes to our Legislation.

We, naturally, reserve the right to raise other matters not included in the above material, outside of this timeframe.

With thanks

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President

Hon M T (Rene) Hidding
CEO
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