

AQUATIC RESOURCES MANAGEMENT BILL 2015

Third Reading

Resumed from 21 June.

MR J.M. FRANCIS (Jandakot — Minister for Fisheries) [1.06 pm]: I move —

That the bill be now read a third time.

From the outset can I say that I appreciate the opposition's support for the Aquatic Resources Management Bill 2015. It is a very important bill. As we mentioned last night during consideration in detail, it has been 22 years since the last bill passed through this place and was enacted. It is governed through the management requirements of fisheries to a large degree throughout Western Australia. It is important for a number of reasons that this bill now progress. It will make a number of significant changes to the management of fisheries in Western Australia. I will not take too long because I think it has been well and truly covered during both the second reading stage and consideration in detail. Notably, this bill has the overwhelming support of not only the recreational fishing sector, but also the commercial fishing sector. The bill will go a long way—the member for Gosnells is very keen on this—towards alleviating many of the environmental concerns that have evolved with fishing. We spoke last night during consideration in detail about how all three sides—environmentalists, recreational fishermen and commercial fishermen—have progressed their relationships over the last few years to realise that what is taken from the ocean has to be done on an environmental and ecologically sustainable basis. Nobody wants to destroy an entire species. No-one wants to see the fisheries written off for future generations. Everyone wants to see things managed based on the best available scientific research and advice possible, because doing anything else would be absolutely counterproductive for generations to come—in fact, indefinitely. All of these issues are predominantly addressed throughout this bill and are significantly important.

I want to again point out that a lot of work has gone into this over a number of years. I inherited this portfolio when much of the hard work had already been done. An awful lot of resources from the Department of Fisheries and all the interest groups involved have gone through an extensive consultation period to get to the point we are at today. I understand the opposition gets that as well. Members opposite realise that the financial certainty that, to a degree, will be provided for people with the right to take resources from the ocean will allow those people to have some kind of security in their business operations. There will be much greater openness and transparency in the way fisheries management decisions are made, and the way that we are able to manage the resources and put Western Australia on the map.

As far as commercial fishing is concerned, we have a premium product in Western Australia. We have a high-quality seafood product that has almost unlimited boundaries in which to find a market, especially in South East Asia and countries such as China and Japan. On top of that, we are very aware of the tourism potential of the ocean in Western Australia. The state has some 12 500 kilometres of coastline, excluding the islands off the coast—just the baseline of mainland Western Australia. I am lucky enough to have been in a job previous to this one in which I sailed around Australia a number of times, and sailed to all kinds of places in the world, but there is nothing like the coastline of Western Australia. I have never seen anything like it, and I have been everywhere from Tahiti to the Mariana Islands. It is a significant attraction and a significant benefit to our economy through the tourism and ecotourism that these things can attract, and already do attract, with things like whale sharks and fishing opportunities.

The fishing industry in Western Australia is unlimited in its opportunity and its potential, and it is hoped that this bill will address all the concerns of all interested groups. Therefore, I commend the bill to the house, and thank the opposition for its support.

MR D.J. KELLY (Bassendean) [1.12 pm]: I want to make a few comments on the third reading of the Aquatic Resources Management Bill 2015. I will begin by making it clear that the opposition supports this legislation. I also want to thank the departmental advisers who assisted us during consideration in detail. Members of this side have a lot of respect for the work done by the Department of Fisheries. Over a long period its officers have developed a good reputation for the work they do. It is regrettable that they were asked to get involved in the shark cull issue, which tarnished, in the eyes of some sections of the community, the role of the Department of Fisheries. Having said that, I thank the advisers for the assistance they gave during consideration in detail.

As the minister has indicated, this legislation has taken a long time to get to this place. There has been some angst on the part of various stakeholders that this legislation appeared at one point to have fallen off the table, or down a crack or whatever. However, it is here now and we support it, and we have not tried to unduly delay its passage. While some people have some misgivings, we know that both the commercial sector and the recreational sector are supportive of this legislation. We have not sought to unduly delay this legislation, but

during the second reading debate and consideration in detail we took the opportunity to raise a number of issues, and I want to touch on some of them in this speech.

I will go back to the document that actually kicked off the discussion on the need for new legislation, titled “A Sea Change for Aquatic Sustainability”, produced in 2010 by the then Minister for Fisheries, Hon Norman Moore. According to that document, one of the key reasons for upgrading and enhancing fisheries management legislation was ensuring the environmental sustainability of our fisheries into the future. Our marine environment was coming under more and more pressure from environmental changes, so we needed to place protection of that environment front and centre in managing our fisheries, because if we do not we have the potential to lose those fisheries in the future. That was one of the key reasons for the government at the time beginning the process that has resulted in this new legislation. Fundamentally, we on this side of the house agree with that proposition. Our marine environment, and the fisheries that rely on it, will not be with us into the future, for generations to come if, as a government and a community, we do not protect the health and ecological sustainability of those marine environments.

We support this legislation to the extent that it attempts to put protecting our environment at the forefront of our fisheries management. We think, to some degree, that this legislation has done that. One of the issues I raised was the question of why the government removed the precautionary principle that sits in the existing fisheries management legislation. That precautionary principle was introduced by the then Minister for Fisheries, Hon Norman Moore. I am not sure that anyone would accuse Hon Norman Moore of being a greenie or an unbalanced environmentalist. He was very much in the camp of promoting resource extraction from our fisheries, but at the time he saw that the precautionary principle would be a very valuable additional tool to include in the legislation. In response to that, the present Minister for Fisheries said that the precautionary principle has been embodied in other provisions of the legislation. I am not really sure that that is correct. There is a legitimate argument that this legislation does not put the environment as close to front and centre as it possibly could if, for example, it had retained the precautionary principle.

The other point is that we can have whatever legislation we like, but if the government does not stand behind it, ensuring that the Department of Fisheries is properly resourced and able to do its job, we will not get the benefits of the legislation regardless of what it says. I believe we can easily make a case that this government does not really have protection of the environment as a core value. Its attitude to climate change is one pointer. Climate change has a direct impact on the sustainability of our fisheries, yet this government is virtually silent on the issue of climate change, to the extent that it says anything about it. The Minister for Fisheries is shaking his head. I asked the Minister for Environment when we were dealing with another matter whether he had ever come into this house and made a ministerial statement about climate change. I certainly cannot remember it. I have heard him make ministerial statements about mattress recycling. Just the other day he answered a dorothy dixer or gave a ministerial statement, I cannot remember, about a \$3 000 grant to assist charities to clean up their charity bins. That is a laudable project, I hasten to add, but with the challenges we face with climate change, I would have thought that in the years the environment minister has been minister he could have found some time to come into the house to talk about it. I do not want to digress too much, but the intention of this legislation was to put protecting the environment at the front and centre of managing our fisheries. As I said, the government can write legislation, but if it is not a government with ministers who think this stuff is important, we do not get the level of protection needed. I think we can easily make an argument that this government might pay lip service to this issue, but in reality it does not really see it as being, if I can put it this way, core business.

The other problem, of course, is that because the government has comprehensively mismanaged the state’s finances, it is now imposing arbitrary cuts on the Department of Fisheries through various agency reviews or workplace renewal policies, all of which have added up to very significant cuts to the department’s budget. The department will not be able to make proper use of this legislation if it does not have the proper resources to do it. That is a big issue. On this side of the house we have grave concerns about whether the government will be able to properly implement this legislation given the funding cuts being proposed in the fisheries department.

Before I move off the issue of resources, one of the key elements of this legislation is that each aquatic resource will have an aquatic resource management strategy and each fishery underneath those ARMS, as they are called, will have an aquatic resource user plan. I think a substantial amount of work will be involved in working with the industry to move fisheries from the existing fisheries management plans under the existing legislation to ARMS and ARUPs under this legislation. My concern is that the fisheries department will struggle to have the resources to do that because of the budget cuts that I have already mentioned. The legislation states that people will remain on those fisheries management plans that they are on after this legislation has been passed until they get moved on to the ARMS and the ARUPs. There is no urgency, possibly, but if this legislation is being implemented for a reason—that is, to improve the way we manage our fisheries—I am concerned that the government is not going to give the fisheries department the resources to properly do this job. I suspect that the

minister will not have the ticker to go into cabinet and argue with the Treasurer to give him additional resources to do this, because—I say this in the most polite way—the minister is more interested in politics than the substance. I do not see the minister going into bat for the fisheries department in order to get it the additional money to allow it to do the work it will need to do under this legislation.

I raise some other issues. During consideration in detail we talked a bit about what has happened with the herring stock. Under the existing legislation the government made a decision to take drastic action because of a decline in the herring stock. Currently, I understand that the herring fishery is split 50–50 between recreational fishers and commercial fisheries. Because of the drastic decline in the herring stock, a decision was made that there needed to be something like a 50 per cent cut in the catch for herring. There was debate about how that should be implemented, but where the government landed was that effectively the commercial fishery would be closed—so there would be a 100 per cent reduction in the commercial catch—and the recreational catch would only be limited by a reduction in bag limits. That altered the 50–50 split in the fishery between the commercial and the recreational take. Under this new legislation a split between sectors for a fishery will be outlined in the ARMS. Questions have been asked about that. If an aquatic resource management strategy has a split between recreational and commercial fishing, what will happen if something happens in the fishery that requires drastic action similar to what happened with the herring fishery? Will the government be able to provide an immediate or fast response in order to take the action required to repair or rejuvenate the fishery? Will it be able to do it under this legislation? I asked the minister and he confirmed that in his view he would still be able to take similar action that was taken in respect of herring by using clause 125, “Minister may prohibit activities”. I thank the minister for that clarification that he believes that this legislation still allows the minister, notwithstanding the new ARMS in place, to take similar action as was taken in relation to the herring fishery under the existing legislation. I did say to him that the ability to use the powers under clause 125 of the bill possibly undermined some of the belief among some members of the commercial fishing sector that the new legislation would give them greater security of access to the resource. The minister said he did not believe that would be the case, but I will be interested to hear from commercial fishers whether they think that is the case.

In consideration in detail I also asked the minister about clause 26 of the bill, which outlines the method for allocating shares under an ARUP. I drew the minister’s attention to clause 26(2)(d), which effectively states that the minister could allocate resource shares set out in an aquatic resource use plan by sale by public tender or auction. I asked the minister if, under the new legislation, he intended to transfer existing fisheries and existing catch entitlements by sale by public tender or auction. I think the minister’s response was that that process would be utilised for only new fisheries. The legislation does not state that, but I am sure that people in the commercial fisheries will take the minister on his word and accept that that will be the case. One of the other reasons we support this legislation is that we believe our marine environment industry, even though it has produced some jobs, has the potential to deliver more jobs to Western Australians. During the mining boom in this state, the government was overly focused on the mining industry and it largely ignored others such as the fishing, tourism and aquaculture industries. We hope that this legislation will give a boost to some of those industries and that the aquaculture sector in particular will be able to use the new provisions for aquaculture to expand that sector and, in doing so, deliver more jobs for Western Australia.

I want to raise two issues that the government is behind the eight ball on. I do not think this legislation properly takes into account the tourism potential offered by the marine environment. I am concerned that when this government puts together aquatic resource management strategies and works out the aquatic resource usage plans, the tourism potential of the marine environment will still be a poor cousin of traditional fishing. This is a shame because I think they can both work together. It should not be one versus the other. We should be able to have a flourishing fishing industry and also a growing tourism industry. However, that will not happen if tourism does not have ready access to the decision-making processes under the aquatic resource management strategies and use plans. Going by the discussions with the minister during the consideration in detail stage of the bill, I think the government is behind the eight ball on that issue, which is disappointing. The other issue the government is behind the eight ball on is country-of-origin labelling for seafood. To put that in place for seafood that is sold in restaurants and other environments where it will be cooked and consumed immediately, the federal government has to get on board, but that does not mean that the state government cannot have a voice on this issue. At the moment this government’s policy is to not support country-of-origin labelling in restaurants. The commercial fishing industry in Western Australia wants country-of-origin labelling to apply in restaurants and other venues where cooked seafood is sold. The industry supports the view that consumers have the right to know where their food has come from, but it also believes that it will be a huge boost to the local seafood industry because consumers will choose to purchase local seafood rather than seafood that has been imported from other jurisdictions, which possibly do not have the same high level of environmental standards that our fisheries have. Some sections of the hospitality sector are not supportive of country-of-origin labelling because they believe it will be too difficult for restaurants to implement. I understand their reluctance but I know that it

has already been put in place, for example, in the Northern Territory. I get reports that that restaurant sector is now getting a premium for local seafood.

Mr J.M. Francis: Was that self-imposed by the industry or done by the local territory government?

Mr D.J. KELLY: I understand that it was done through the federal government because it is a territory not a state. The state government should be an advocate for country-of-origin labelling for seafood. It should sit down with the restaurant industry and work through the issues to get a win-win scenario that delivers a boost for not only commercial fishers, but also local restaurants, because I believe consumers will pay a premium for local produce. This state government does not have a very good track record, despite its rhetoric, of taking up issues in Canberra. However, if the government got on board in this area it would boost not only local fisheries, but also the number of jobs that flow from that. On the job front, this government does not understand the tourism potential of the marine environment. Its lack of creativity on finding a scenario in which it can support country-of-origin labelling for seafood is disappointing.

I have only a few minutes left. My understanding is that this bill will, for the first time, make a specific allocation for customary fishing in the aquatic resource management strategies produced by the legislation. It is disappointing that the government has not consulted with any Indigenous groups about this legislation. In consideration in detail I asked the minister about this and he said that there would be consultation when we potentially put the ARMS together. I think that misses the point. The government consulted with the commercial sector and the recreational sector, as it rightly should, before this legislation was drafted, but this government did not—I have raised this a couple of times—consult with any Indigenous groups about this legislation, even though it will regulate Indigenous Western Australians' customary fishing entitlements. Once again, this government has a blind spot, or even a prejudice, when it comes to dealing with these groups. The minister rolls his eyes.

Mr J.M. Francis: That's just not true.

Mr D.J. KELLY: Why would the minister properly consult with the commercial fishing sector and the recreational fishing sector, but, despite me raising the issue several times, not consult with Indigenous groups on this legislation?

The final issue I want to touch on is the folly that has been the government's shark mitigation policy. This legislation, again, will allow the minister through an exemption to begin to take sharks as part of shark mitigation. The way that the government views this issue is a flaw in this legislation. To have a whole whiz-bang, complicated, state-of-the-art, twenty-first century fisheries management policy, but at the stroke of a pen the government can give itself an exemption to do what it likes and can start killing sharks without any transparency or any scientific backing is just disappointing, and many people in the community feel that way. The legislation can be best practice, but if at the stroke of a pen it gives the minister the power to ignore all that and start to do something like shark mitigation, it is a disappointment.

MR C.J. TALLENTIRE (Gosnells) [1.41 pm]: I rise to make a brief contribution to the third reading debate and to reflect on the nature of the debate on the Aquatic Resources Management Bill 2015. I note that we can be proud of the general tone of the debate. It was an exchange in which ideas were put forward and for the most part the minister was prepared to consider. People say to me that they have seen Parliament at question time and they feel that members' behaviour is not of the standard they would expect to see from parliamentarians. I always point out to them that occasions like the consideration in detail of bills is an example of when the Parliament is in a more cooperative mindset. It is often a time when constructive discussions are held. I think there was broad agreement about the need for this bill, but there were some sticking points, and I want to highlight some of those sticking points in this brief contribution.

We began by noting that it is very clear that one of the objects of the bill is to ensure that we have the commercial benefits of a supported fishing industry, because the fishing industry is a driver of economic activity. But when it came to other uses of the marine environment, they were not explicitly named in the legislation; they were just grouped under the banner of "other benefits". I think that is a concern. Our aquatic resources are not just for those who want to kill fish to be consumed. There are many other benefits that come from aquatic resources and I think it would be beneficial to have those explicitly stated in the legislation, not just bundled up under the notion of "other benefits". That is one of the concerns that we touched on.

Another issue on which we had broad agreement was the desire of the Department of Fisheries, and the view of the minister, the government as a whole and governments across Australia, to have our various fisheries—this is certainly the case in Western Australia—certified through the Marine Stewardship Council, so we have its international benchmark and recognition system for the sustainable management of particular fisheries. It is interesting that the minister supports this certification, but it is not mentioned in the legislation. The Marine Stewardship Council is not mentioned in the legislation; yet, I can see that so much of the legislation is crafted so we would meet the standards of the Marine Stewardship Council. When people go into a supermarket and look for a particular product, they can see a blue tick on the can or the shelf displaying the fish for sale and see

that it has that approval from the Marine Stewardship Council. To my knowledge—the minister might be able to confirm this—the only one of our fisheries that has MSC certification at the moment is the western rock lobster fishery. There may be other fisheries in the pipeline for certification. It is certainly the case that the western rock lobster fishery was one of the first fisheries in the world to receive MSC certification, and certainly in Australia.

Mr R.S. Love: The first in the world.

Mr C.J. TALLENTIRE: The first in the world, or the first in Australia?

Mr R.S. Love: The first in the world is my understanding, but it was a long time ago.

Mr C.J. TALLENTIRE: The question remains: how many of our other fisheries have MSC certification? It is a great aspiration to have all fisheries certified. My consumer preference when I am buying prawns is that I like to know that they come from Exmouth Gulf. The quality of the water in Exmouth Gulf is great and I am very confident about the quality of the prawns that come from there.

Mr J.M. Francis: Exmouth prawns, Shark Bay prawns, obviously, the lobsters and we are about to announce Mandurah crabs. That is three.

Mr C.J. TALLENTIRE: Well done; we are increasing the number of fisheries that have that MSC certification. I am pleased to hear that Exmouth prawns have MSC certification. We need to note that when the trawl fishery commenced in Exmouth Gulf, great damage was done to the seabed, because basically that enterprise would pull nets along the seabed in the gulf and rip out everything else that was there. Now, the fishery is there and it has been there many years and produces a good clean product. I think MG Kailis, which runs operations there and provides us with those prawns, is very careful about not straying beyond defined limits when it conducts its trawl in Exmouth Gulf. It is important that we have that aspiration for certification, but I think it is odd that our commitment towards MSC certification is not explicitly mentioned in the legislation.

I do not think we managed to explore the biosecurity aspects of the legislation in sufficient detail. This is a very important area, and the minister explained that if a particular activity, often on land, such as a horticultural or agricultural activity, leads to the use of chemicals that are found to get into a river—I gave the example of Ord River—and causes problems with a fishery in, say, Cambridge Gulf, in the case of Ord River, through this legislation the minister could seek to constrain that activity. He said that could only happen if it were found that other legislation—we cited the Biosecurity and Agriculture Management Act 2007—could not be the legislative mechanism for constraining the chemical use. I wonder whether we may find that we have this problem, which we find we have all too often in government, of no-one actually taking responsibility; finger pointing will be going on and people will say, “They should do it under the BAM”, and someone else will say, “They have the power to do it under the aquatic resources management legislation.” That is a concern. I think we have to make sure that it is very clear where the chain of responsibility goes.

An interesting, topical issue has come up. We know from the success of the film *Finding Nemo* that there was a great enthusiasm amongst consumers to buy clownfish; people wanted to have clownfish in aquariums, and I cannot blame them for wanting to do that. I hear that there is now a concern for blue tang fish, as featured in the film *Finding Dory*. They are a beautiful blue fish, and apparently they speak with the same voice as Ellen DeGeneres! But it is a concern that the population of those fish could be hard hit by the aquarium trade. That is the sort of thing we have to be mindful of and perhaps even Hollywood animated film producers could be mindful of the need to work with the aquarium industry so that there is a farmed stock that can meet the inevitable demand that comes with successful films like that.

The community’s desire to buy products that are from well-managed stocks is really strong. I do not know how long we have had tins of tuna marked as “dolphin friendly”; it is horrible to think that some time ago, one would have been buying tuna that was dolphin unfriendly. I do not think it would not be possible to buy that now. I do not think we see dolphin unfriendly tuna on the shelves anymore, but people want to know that they are doing the right thing, so we have to make sure that people are given information and that the information is there, ready for them to make their purchasing decision on. That is very important.

We talked about the aquatic resource use plans and the aquatic resource management strategies, who would be involved in the development of those strategies, and who would comment on their content. We said that, of course, the Western Australian Fishing Industry Council would be a major contributor to the formulation of those documents. We also said that Recfishwest would be a major contributor and noted that those bodies have very successful means of funding so they can make meaningful contributions. We went through a list of other bodies that would be expected to make contributions on those documents and noted that they have the financial capacity to really make well-researched, meaningful contributions. We talked about those other users and when we were talking about the objects, we mentioned that there is a notion that there may be other benefits that can be derived from the aquatic environment. Inevitably, the exchange I had with the minister got to the point at which we found out that a group that represents conservationists would not have any assistance or financial support to enable it to

make detailed contributions, but it would be expected to make contributions. It would be assumed that it would, but that that would not be resourced in any way, so there is a clear inequity there. On one hand, we have commercial interests and recreational interests that are very well funded. These are mechanisms that government has put in place to make sure that those bodies get funding. Recfishwest has an ongoing, reliable funding stream that enables it to conduct its educational activities, to do all sorts of promotional work, to provide media comment and to do all kinds of things, and that is fair enough, but we do not have anything going to those who are interested in the marine environment because they want to see conservation and the protection of marine species. They do not have any funding coming their way so they can, perhaps, provide more detailed research into the plight of particular demersal species. We know that demersal species like baldchin groper and the other groper species are constantly under attack. Their numbers are diminishing fast and we have had to enforce strict bag limits and closures at certain times for some of the snapper species. Our fish stocks are sometimes hammered to the point that their capacity to be fished into the future comes into question, and that is why we need to make sure that we have balance in the contributions put forward when it comes to designing aquatic resource use plans or aquatic resource management strategies for any of those fisheries. We have to have good contributions from well-resourced bodies that can make intelligent contributions, and I do not think it is enough to just hope that people will stay up late one night and come up with a few ideas on how an aquatic resource management strategy could be improved. It is not enough; we have to make sure that they are properly resourced so they can actually get out into the field and do that research. There was a time when we could rely on universities to provide that level of research, and in many instances we still can, but there is nothing like having the impartiality of comment that comes from those who are passionate about the conservation of the marine environment. We need to make sure that they are well resourced and well funded.

I have confidence, though, that the Department of Fisheries has the best of intentions when it comes to this legislation and that it has the scientific capacity in many areas to manage fisheries from a sustainable fishing point of view. What is a challenge is to make sure that it is not just a sustainable fishery, but that it is a fishery that is in the context of an ecologically sustainable piece of the marine environment.

That leads me to my final concern—I do not think we have really managed to tease this out in our considerations—around the fact that, effectively, we have two agencies that are responsible in some way for the marine environment. We have the Department of Fisheries and we have the Department of Parks and Wildlife, which is responsible for the biodiversity of the marine environment. It would be a mistake for any member to imagine that the legislation that governs the operations of the Department of Parks and Wildlife constricts its interests to the conservation estate; that would be a complete misunderstanding. The fact is that the Department of Parks and Wildlife has responsibility for biodiversity right across the terrestrial environment and right across the marine environment as well. It is responsible for biodiversity values right across the state's waters, but we also have the Department of Fisheries. We need to know how the government is going to manage that tension and which agency is ultimately responsible. I know that at an operational level, there are many examples in which that job is done very effectively because people acknowledge that the Department of Fisheries has the boats, the offices spread along the coastline and the capacity to liaise with all kinds of aquatic environment users—mostly fishers, I guess—and that the Department of Parks and Wildlife has its legislative responsibilities. How that conflict is going to be managed into the future is a question that I think we will have to revisit at another time.

I am happy to offer my support for the Aquatic Resources Management Bill 2015 and I commend the bill to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.