

FISH RESOURCES MANAGEMENT AMENDMENT (FEES) BILL 2010

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Section 58 amended —

Ms J.M. FREEMAN: Clause 4 inserts, after section 58(2), proposed section 58(3). It states in part —

- (3) A fee prescribed under subsection (2)(m) may include one or more of the following —
 - (a) an amount in respect of the extent or value of any authority conferred by an authorisation;

What is meant by “any authority” in respect of authorisations? To me that seems very convoluted and not very clear. What does “any authority” refer to?

Mr W.R. MARMION: I can see why the member is confused! I will see if I can unravel it. It refers to any authority to fish conferred by an authorisation, which would be a licence.

Ms J.M. FREEMAN: I thank the minister. The clause continues —

- (b) an amount in connection with any purpose referred to in section 238(5) that is relevant to an authorisation;

I want to take the minister to section 238(5) and its purposes. I note that it is to assist the fishing industry or anybody, whether incorporated or not, whose objects include the provision of assistance to, or promotion of, the fishing industry. I assume that that refers to the Western Australian Fishing Industry Council and Recfishwest. Where in section 238(5) can we include conservation organisations? Would it not be difficult to say that they are part of the fishing industry as such? Where does the minister think that we could include conservation organisations, such as the Conservation Council?

Mr W.R. MARMION: I am advised that the possibility of funding a conservation group could be done under section 238(5)(d) of the Fish Resources Management Act, which states —

to defray the costs of the administration and management of commercial fisheries;

The view is that “management” is a very broad term and includes consultation. Therefore, under subsection (5)(d) it could be construed that a minister, if he or she chose, could consult in that way under the banner of “good management and good conservation management”, and consultation could be used as a mechanism.

Ms J.M. FREEMAN: It may be that the minister will need to take advice on my next question. I understood that the Conservation Council of Western Australia was at one stage funded and is not funded any longer. Was that because of the limitations of section 238(5) and the funding had to be used to defray the costs of the administration and management of commercial fisheries? On what basis did the Conservation Council’s previous funding cease? Was it on advice that there was no purpose for funding a conservation organisation because it was not part of the industry? My second question is: given that the minister is not the primary minister, could some consideration be given to amending section 238(5) through this bill so that it could include conservation as well as exploitation of the fishing industry?

Mr W.R. MARMION: I cannot be definitive on this but the advice is that most likely it was a policy decision by the minister. If that is the case, the mechanism still exists. It is not possible to change section 238 now by amendment. The minister has continuously accepted amendments to this bill, and if it is shown that it was not a policy decision—although most likely it was—the member could propose a small amendment to the minister.

Mr C.J. TALLENTIRE: I seek clarification, though, that subject to the policy decision, it is the view of the minister and his advisers that the legislation will provide money from this fund to pay people who may not be involved in the extraction of the resource but who are interested in the conservation of the resource to be involved in the management of the fishery.

Mr W.R. MARMION: We are talking about section 238(5). The advice on paragraph (d) is that it is probably the maximum for setting up and paying these advisory committees. I guess it even includes scientific research and exploration under paragraphs (b) and (c), and management under (d); in other words the power is grouped together in all those paragraphs, but we would have to get more definitive legal advice on that.

Ms J.M. FREEMAN: Can I just clarify that again? The minister said that paragraph (d) would be for committees that are set up to manage. My question goes to section 238(5)(1), which gives the capacity to fund a body, incorporated or not, to assist that industry or body whose objects include the provision of assistance to, or

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the promotion of, the fishing industry. Is it the minister's view in the promotion of the fishing industry that a body outside of the body established by the minister as a reference body or a body such as the Conservation Council or another body, could be funded; or does this just pertain to Recfishwest, the Western Australian Fishing Industry Council and those industry bodies, and not to conservation bodies?

Mr W.R. MARMION: My advice is that paragraph (l) relates specifically to WAFIC and that recreation fishing comes under section 239, which is referred to in clause 5 of the bill.

Ms J.M. FREEMAN: I am interested to know about proposed section 58(3)(c), which states —
an amount in respect of the costs of administering this Act.

Given that section 238(5)(d) has in effect a power to defray the costs of the administration and management of commercial fisheries, why is a catch-all provision required, such as this proposed section 58(3)(c)? Is there a risk that this could be used in the same way as the Waste Avoidance and Resource Recovery Levy Act in that it becomes a fee for running the organisation? I have therefore two questions. First, why does it look as though the minister is getting a power that he already has if it is only for a purpose for which he has used the power previously and the intent of the bill is simply to ensure that the fees are accurately portrayed as taxes as in section 238(5)(d)? Secondly, is there a risk that the power could be used in the same way as it was used in the Waste Avoidance and Resource Recovery Levy Act?

Mr W.R. MARMION: There is a simple answer. Section 238(5)(d) relates to defraying the costs of the administration and management of commercial fisheries, which is therefore specifically for managing fishery stock. Indeed paragraph (d) specifically says "commercial fisheries". Proposed section 58(3)(c) in this clause is a catch-all provision and is to do with administering the whole of the act, not just commercial fisheries. It covers anything in the current act for which there is a fee. The member's committee said, "Hang on, it's a tax." That is what it is about; it picks up other administration costs of the Fish Resources Management Act.

Ms J.M. FREEMAN: My second question was: is there a danger in that catch-all provision that there could be fees and taxes raised for the purposes of operating the department, obviously limiting the consolidated revenue fund, such as was done with the waste avoidance levy?

Mr W.R. MARMION: The fees, if collected, can run the department. At the moment the department is partially funded by the CRF. It is funded with a combination of revenue, but the fees can go to the administration of the act and the support of the department.

Ms J.M. FREEMAN: Can the minister confirm that the purpose of the bill, as I understand it, is simply to ensure that the department is not at risk of having its development and better interest fund being considered a tax? The department has the right to charge fees as long as those fees are collected on a cost-recovery basis. However, this provision is a taxing right that goes beyond that. The government is giving the department the right to go beyond recovering fees on that basis. The department will tax consumers for the management of the industry. If the purpose of the bill is to simply ensure that the development aspect of what the government wants to run through the department is funded appropriately, is not proposed section (3)(c) beyond the intent of what was supposed to occur as a result of the thirty-fifth report of the Joint Standing Committee on Delegated Legislation into the Fish Resources Management Amendment Regulations (No. 3) 2009?

Mr W.R. MARMION: I am advised that all the amounts in proposed section (3)(b), which we just dealt with, relate to the development and better interest fund, which no longer exists. It is basically a royalty.

Ms J.M. Freeman: It is not basically a royalty; you are making it a tax.

Mr W.R. MARMION: Or a tax—I am advised that it is a royalty. We are collecting a lump sum from the fishers, and that revenue will go into the pot of revenue of the department, and to be used for the things that the department has to do.

Ms J.M. Freeman: It goes into the account. Is there a specified account for it?

Mr W.R. MARMION: Yes.

Ms J.M. FREEMAN: The minister has not answered my question. Proposed section (3)(b) is for the account that runs what normally would have been the development aspect, and proposed section (3)(c) gives the government a right to impose a tax for everything else under the bill. Previously it was never in question that the department had a right to charge fees for it, but now the government wants a taxing right for everything else. There has never been any argument that cost-recovery fees could not be charged for the operation of the Fish Resources Management Act. That has never been in question. What was in question was how the development fund was managed. We said that the government needed to have a taxing right for that. We now know that proposed section 3(b) is for that purpose; that is where it fits in. The government is giving itself an additional right above what the thirty-second report said was needed and is giving the department a right to charge a tax

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above the fees. The government will not have to show cost recovery for the way the amended act will be administered. Is that right in terms of proposed section 3(c)? Can the minister clarify that?

Mr W.R. MARMION: I am seeking advice on that right now. Proposed section 3(c) is a catch-all. Any fee that is charged will have to go through the regulations and could be disallowed by Parliament or the minister. Although it is a catch-all, the advice I received earlier is that the Minister for Fisheries has guaranteed that during this term of government the fees will remain at 5.75 per cent. That amount will not be increased under this government.

Mr A.J. WADDELL: If I understand correctly, in 2013 the Department of Fisheries could bring forward a regulation to increase that fee from 5.75 per cent to 12 per cent. We would ask why the department has done that and the department could say that it was because the chief executive officer wanted to buy a new car. Is that legitimate under this legislation?

Mr W.R. MARMION: That is a good analogy. If the fee increases from 5.75 per cent to 12 per cent, it would have to be done in consultation with the minister and industry. They would work out what the quantum dollar amount would be and that would become a proposed regulation which would go before Parliament and which Parliament could disallow. I have just been advised that the initial starting percentage can be initiated by the minister and industry. That starts the process of amending the regulations that go to Parliament, where they can be disallowed.

Ms J.M. Freeman: Where does it say in the bill that there has to be consultation between industry, the minister and the department?

Mr W.R. MARMION: I would have to ask my adviser.

Ms J.M. Freeman: You have said that would be done by negotiation between the industry, the department and the minister. Where in the bill does it say that there must be consultation? Is that simply consultation or does the industry have a veto over it?

Mr W.R. MARMION: I will ask my adviser.

Mr W.J. JOHNSTON: I am very interested in the answer that the minister will give to the eloquent question asked by the member for Nollamara when the minister is ready to give that answer. I know that the minister is receiving very good advice. The quality of advice that he is receiving is outstanding. Have I talked long enough, minister?

The ACTING SPEAKER (Mr A.P. O’Gorman): You do not have to keep talking, member!

Mr W.R. MARMION: I am advised that there is nothing in the bill that requires consultation between those parties to take place. However, it has been done by convention and successive governments have been doing it successfully since 1995. We presume that that will continue.

Mr A.J. WADDELL: If we take those two answers in conjunction, if the department decides that it wants to buy a new fleet of cars for its executives, it does not have to consult with the industry; it can just increase the fee. One presumes that the minister will need to sign off on that. Aside from that, there does not need to be any further consultation. There is no automatic mechanism for disallowance of the regulations because the normal scrutiny by the Joint Standing Committee on Delegated Legislation is bypassed by virtue of the fact that this is a tax and therefore nothing in its terms of reference allows it to review the quanta of any increases. We are simply hoping that the convention will hold, hoping that someone notices and hoping that someone introduces a motion into the upper house and therefore does the right thing. Is that correct? Is there no safety mechanism whatsoever?

Mr W.R. MARMION: I did not quite follow the logic of the member’s question. Regulations are tabled, so they can be disallowed. The mechanism is that we do not have to inquire; they actually come before Parliament and can be scrutinised, so they can be disallowed. Any changes to the regulations can be knocked on the head by Parliament as a result of something going to 12 per cent, not so that cars would be put in there, but for anything else.

Ms J.M. FREEMAN: I ask the minister to clarify that answer. There can be an increase from the current 5.75 per cent, which we have been told is guaranteed for the life of this government, and it could go up to 12 per cent. The additional six or seven per cent can go into the Western Australian Fishing Industry Council under section 238(5). Given that the industry is getting the money, it is not going to complain about that. The regulation would lie before the house and it would be reliant on someone moving a disallowance motion. Can the minister confirm that that would be the case?

Mr W.R. MARMION: I think the member is getting off the track a bit here. It is very hypothetical.

Mr B.S. Wyatt interjected.

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Mr W.R. MARMION: Actually, I could not go further off the track than the member for Victoria Park.

The hypothetical example of going from 5.75 per cent to 12 per cent is a huge increase, because industry would go ballistic if —

Ms J.M. Freeman: But you're giving it to industry.

Mr W.R. MARMION: No, we are not. We are giving it to WAFIC. WAFIC gets 0.25 per cent of that. A total of 0.25 per cent would go to WAFIC legitimately, not as income. This 12 per cent would come off income.

Ms J.M. Freeman: You don't determine what happens once you give that 0.25 per cent to WAFIC. There is nothing in the act that tells me that there is any determination of what happens when it goes into that fund.

Mr W.R. MARMION: I am not an expert on the act or the operations of the department, but most departments I have been involved in during my 24 years of dealing with government departments did not give money to anybody unless they had a contract and it told them what they were going to get for their money. I think the member would know that.

Clause put and passed.

Clause 5: Section 258 amended —

Ms J.M. FREEMAN: This clause seeks to insert the following at the end of section 258 —

(2) A fee prescribed under subsection (1)(zc)(ii) ...

Again, that is the issue of authorisation. I think we said that authorisation was the authorisation for fishing or the authorisation for licensing. That is my first question. The minister answered that earlier. For the record, could the minister tell me what he means by "authorisation"? Could he also tell me why it is limited to paragraph (zc)(ii), which states —

the issue of authorisations; and

Why is it not attached to paragraph (zc)(i)? I can sort of understand that. That would be the State Administrative Tribunal. It would be good to know why no money can be raised for that under this taxation. Also, why is it not attached to paragraph (zc)(iii)? There are a few questions there. Did the minister get all of them?

Mr W.R. MARMION: I will answer the first question. I could not follow the member because I was reading the act when she was asking those questions. As far as proposed subsection (2)(a) is concerned—that is, "an amount in respect of the extent or value of any authority"—that is an authority to fish "conferred by an authorisation", which is conferred by a licence.

Ms J.M. FREEMAN: I refer to proposed subsection (1)(zc)(ii)—"the issue of authorisations; and". It does not include paragraphs (zc)(i) or (zc)(iii). Why would money not be collected in those areas?

Mr W.R. MARMION: It is just a simple way of working out the mechanics of how it operates. Proposed subsection (2) will be inserted at the end of section 258. It states that a fee prescribed under proposed subsection (1)(zc)(ii)—the issue of authorisations—may include one or more of paragraphs (a), (b), (c) or (d). The member is asking why it does not include paragraphs (zc)(i) and (zc)(iii). It is because they are already there. We are just clarifying paragraph (zc)(ii)—that is, what a commercial licence fee can be.

Mr A.J. WADDELL: I am concerned about the language that is in the bill for the purposes of clarity within the acts that have passed this place. In particular, I am concerned about the very nature of this bill, which is designed to convert the moneys collected by this act into taxes or, as the member refers to them, royalties. There is a reference in this bill to fees. I am concerned that we are muddying the waters between what is a fee and what is a tax. I am sure that the minister is not implying that these continue to be fees, treated as fees and reviewable as fees in accordance with them being fees for service. Is there any possibility that we can clean up the language in this bill so that we refer to them as taxes or royalties, which is what they are, rather than fees?

Mr W.R. MARMION: No, we cannot do that. We would mess up the whole mechanism of what we are doing. Everything relates to a fee. If we go to the next bill, it refers to a fee. It is deemed to be a tax and it may impose a tax. The whole structure of the bill refers to fees. We cannot change the wording because we would have to change the structure of all the acts.

Ms J.M. FREEMAN: Just for clarification, paragraph (zc) states —

prescribe fees and charges for the purposes of this Act, including fees and charges payable —

Mr W.R. Marmion: Where are you reading from?

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Ms J.M. FREEMAN: I am getting to proposed subsection (1)(zc)(ii). To get the minister to where I am, I refer him to clause 5 of the bill, which seeks to insert at the end of section 258 —

(2) A fee prescribed under subsection (1)(zc)(ii) ...

That will be inserted after proposed section 258(1)(zc), which states —

prescribe fees and charges for the purposes of this Act, including fees and charges payable in respect of —

(i) applications, other than an application to the State Administrative Tribunal for a review;

Therefore, a fee without a taxing authority —

(ii) the issue of authorisations; ...

Which is a licence fee, or fee with taxing power, and —

(iii) the provision of any service or information;

That is a fee without a taxing power. Will the minister tell me whether I have understood that correctly?

Mr W.R. MARMION: They are all fees. I know there is a debate about fees and taxation, but we are talking about fees. In subsection (2), the issue of authorisation is about a fee for any of the following in paragraphs (a), (b), (c) and (d). In these, the government is clarifying —

Ms J.M. Freeman: Whether they have taxing power.

Mr W.R. MARMION: Yes; if deemed to be a tax, it is —

Ms J.M. Freeman: You are giving yourself a taxing power; it does not need to be deemed to be a tax.

Mr W.R. MARMION: Correct. And the member is saying that does not apply to the others.

Ms J.M. FREEMAN: Yes. And for clarification—a simple yes will suffice—am I right in saying that paragraph (zc)(i) is a fee without a taxing power; (zc)(ii) is a fee with a taxing power; and (zc)(iii) is a fee without a taxing power?

Mr W.R. MARMION: No; paragraph (zc)(i) and (iii) and the others below are a fee under the old system and paragraph (zc)(ii) is a fee under the new system.

Ms J.M. FREEMAN: And, under the new system, paragraph (zc)(ii) is a fee with a taxing power?

Mr W.R. MARMION: On advice from the State Solicitor's Office, it is a fee.

Ms J.M. FREEMAN: I understand what the minister is saying on advice from the State Solicitor's Office.

Mr A.J. Waddell interjected.

Ms J.M. FREEMAN: That is what got the member here. If he wanted to go there, he should not have done this.

Proposed subsection (4) of the Fish Resources Management Amendment (Fees) Bill (No. 2) 2010 states —

To the extent that a management plan prescribes under subsection (2)(m) a fee that includes an amount referred to in subsection (3) that is a tax, the management plan may impose the tax.

Therefore, by way of this bill the minister is giving himself a taxing power. I know that he does not think that it is a tax, but I ask: is paragraph (zc)(i) a fee without a taxing power; is paragraph (zc)(ii) a fee with a taxing power; and is paragraph (zc)(iii) a fee without a taxing power? They are simple questions.

Mr W.R. MARMION: As I said before, and will repeat now, according to the State Solicitor's Office, paragraph (zc)(ii) refers to a fee. However, in the event that it is not deemed to be a fee, it is still valid.

Ms J.M. Freeman: It is a tax. It is valid as a tax. That is what you are giving yourself the right to do.

Mr W.R. MARMION: Whatever the member wants to call it, yes.

Ms J.M. FREEMAN: I do not think there is any place we can go with that, but it seems pretty clear to me. Will the fees at paragraphs (zc)(i) and (zc)(iii) be properly calculated on a cost-recovery basis and not go beyond cost recovery—because they are fee simple—and therefore not be regarded as a tax?

Mr W.R. MARMION: My advice is, yes.

Ms J.M. FREEMAN: Will the fees at paragraphs (zc)(i) and (zc)(iii) be laid before the house and scrutinised by the Joint Standing Committee on Delegated Legislation?

Mr W.R. MARMION: Yes.

Ms J.M. FREEMAN: Thank you.

I refer to clause 5 and proposed section (2)(b), which provides that “an amount in connection with any purpose referred to in section 238(5)”, which we have already looked at, “or 239(4) that is relevant to an authorisation”, and now refer to section 239(4) of the act and the recreational fishing account and the funding of Recfishwest. Section 239(4)(g) states the purpose is —

to assist any body (whether incorporated or not) whose objects include the promotion of recreational fishing; ...

Is that the power by which the department funds Recfishwest?

Mr W.R. MARMION: Yes; that is the power under which Recfishwest is funded.

Ms J.M. FREEMAN: Thank you, minister.

Section 239(4)(g) refers to a body with the objective of promoting recreational fishing. Is that promotion included but not limited to recreational fishing or does that inclusion exclude organisations involved in the conservation of fisheries, such as the Conservation Council of WA? Does subparagraph (g) have the capacity to fund the Conservation Council, or is that a limiting clause by which the department cannot assist a body such as the Conservation Council that seeks to conserve and not exploit the fishing resource?

Mr W.R. MARMION: On advice, subparagraph (g) clearly mentions “the promotion of recreational fishing” and therefore I do not think we can use that to exclude. However, section 239(4)(a) refers to defraying the costs of recreational fishing administration and management, whereby the term “management” could allow for policy decisions to be made, possibly with consultation and advice.

Mr C.J. TALLENTIRE: I seek clarification on the breadth of the term “management” in this paragraph. I am concerned because an object of the act is to exploit the fish resource and that might limit management to extraction rather than conservation. From what the minister has just said, there is some hope that management could in fact be defined as going beyond the commercial or extractive use of the fish stocks.

Mr W.R. MARMION: I draw the member for Gosnells’ attention to the objects of the act, which are —

- (1) The objects of this Act are to conserve, develop and share the fish resources ...

The word “conserve” is definitely mentioned in the act. Subsection (2) provides for the further specific objects of the act and the very first one it mentions is “to conserve fish and to protect their environment”. If the member had worked in the Auditor General’s office, he would know the importance of the order that objects are listed in.

Clause put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR W.R. MARMION (Nedlands — Minister for Environment) [8.19 pm]: I move —

That the bill be now read a third time.

Point of Order

Mr M. McGOWAN: I am a little bit unsure, as are my colleagues, as to where we are at. As I understand it, we are dealing with two bills cognately; I assume we are dealing with the first one first, and then we are going to go into the consideration in detail stage on the second one in a moment—is that correct?

The ACTING SPEAKER (Mr J.M. Francis): That is correct; we are dealing with the first bill, member for Rockingham.

Ms J.M. FREEMAN: So if we want to make a contribution to the third reading debate, do we make it now for the Fish Resources Management Amendment (Fees) Bill 2010, or do we wait until after consideration in detail on the Fish Resources Management Amendment (Fees) Bill (No. 2) 2010?

The ACTING SPEAKER: We are dealing with the first bill, and we will go to the third reading of the first bill, and then back to consideration in detail, if required, on the second bill. We will then move to the third reading of the second bill, at which time you can make a contribution to the third reading debate.

Ms J.M. FREEMAN: I thought they were being dealt with concurrently.

The ACTING SPEAKER: My advice is that only the second reading debate is concurrent.

Debate Resumed

MS J.M. FREEMAN (Nollamara) [8.22 pm]: I was a bit confused, and I thank the house for its clarification.

I rise to make some closing comments. It seems that the Fish Resources Management Amendment (Fees) Bill 2010 came before the house because of a Joint Standing Committee on Delegated Legislation report on the development and better interest fund, and I was very interested to see that this bill has gone beyond the report's recommendations. The report never, ever questioned the importance of developing the industry; indeed, it recognised the importance of doing that. The report stated that the Department of Fisheries needed a taxing act to enable it to do that, but this bill has gone beyond that recommendation by the insertion of an amount related to the costs of administering the Fish Resources Management Act, which could, indeed, lead to great and excessive increases in licence fees that will be passed on to the department under the provisions of section 238(5) of that act. Instead of just addressing the immediate problem and responding in a responsible manner, the government has gone beyond that. While I was somewhat amused by the member for Forrestfield's speech earlier on, he was in fact correct—this is one big fish tax.

Mr A.J. Waddell: A fat fish tax!

Ms J.M. FREEMAN: A fat fish tax? Well, it is a big fish tax, and it does really concern me.

Another thing that concerns me is the limitations of the bill. I understand that one of the objectives of the bill is conservation, but there is no use in having objectives and purposes that cannot be funded by the department. Conservation can be an objective, but unless section 238(5) has a broader explanation than simply "management", the department is limited in its ability to directly fund an organisation such as the Conservation Council of Western Australia or other conservation groups—I singled that group out because I understand that it was once funded—to ensure that the resource is not over-exploited and that it is conserved; I understand the competing demands for that funding.

The Fish Resources Management Act is a bit of a misnomer because it refers to the fish and wildlife that exist off our shores simply as a food resource but does not take into account their intrinsic value to the resource of tourism. I think that should be an important consideration because of the biosystem and environmental connected system that requires there to be a certain amount of life in oceans to ensure their health. It seems that it is restricting to rely on section 238(5)(d), which states that the purpose of the fund is to defray the costs of administration and management of commercial fisheries, as being a portal for our capacity to ensure that we have proper conservation of the fish resources in our oceans and other waters.

I understand that the minister is simply the minister assisting, which makes this debate difficult, but I think that it is imperative that that issue be explored by the other place. As I understood it, the purpose of this bill was the development, management and conservation of the industry, which is once what the DBIF did. If the department is now giving itself the power to tax beyond that, it needs to make sure it does that in a balanced and fair way to ensure that all voices in the industry and in the community are heard on how fish resources are managed.

While the Labor Party supports this bill, it has some concern about proposed section 58(3)(a) and (b). I find it very difficult to support an amount being charged in respect of the costs of administering the act when that amount is much broader than the recommendation of the delegated legislation committee report. I find it completely peculiar and somewhat unexplainable that clause 5 contains two little parts that will amount to cost-recovery fees, even though the department has given itself this overwhelming power at the end of proposed section 58(2). Frankly, I am mystified.

I also draw the attention of members in the other place—I hope that they take notice of my submission—to section 239(4) of the Fish Resources Management Act. Although it provides for the capacity to fund Recfishwest that section is very limited in doing anything to fund conservation. Again, we see this idea that conservation costs can be defrayed in the administration and management of recreational fishing. Whilst I have some faith that that will happen, I think that greater certainty is required. It seems that nothing is stopping such amendments being included in this bill, because this is not the taxing act but the mechanism for that tax. The next bill that we will deal with relates to the taxing authority. That is an important point. It is a big fat fishing tax because what is proposed in section 58(3)(c) was never the intention of the Joint Standing Committee on Delegated Legislation. I will speak for myself: that was not envisaged in any of the discussions of the delegated legislation committee that I took part in. The committee simply wanted to ensure that any money that was collected for the areas of training and development in the industry would go to those areas. Whilst I support the bill, I add those words of caution because it goes beyond what is necessary to give the department authority to undertake training and

development in the industry. Section 58(3)(a) and (b) provides sufficient authority, without the addition of proposed section 58(3)(c).

MR C.J. TALLENTIRE (Gosnells) [8.32 pm]: I want to add a few words to the excellent work done by the member for Nollamara in the chamber tonight. I accept the minister's reassurance that the objects of the Fish Resources Management Act provide for conservation of our fish resources. That was good to hear. However, as the member for Nollamara pointed out, we need explicit mention in the act of the potential for various environmental organisations to be supported in their contributions towards this \$400 million industry.

I should point out that, of the 35-odd fisheries, four or five account for 90 per cent of the \$400 million that is generated by this industry. In other words, a lot of fisheries are not performing particularly well, do not generate much revenue and are struggling. Those fisheries will require a lot of work. I am concerned that we may hear the argument that, as a fishery is generating less than a few million dollars, we should not worry about putting the effort into providing a good management committee. We need to explicitly state that management advisory committees will apply to all the fisheries, regardless of whether they are the big ones like the western rock lobster fishery, the abalone fishery, the trawl fisheries or the small, very marginal fisheries. The sustainability and conservation implications apply just as strongly—perhaps even more so—to those fisheries that are marginal. This legislation should include explicit mention that not only industry groups like the Western Australian Fishing Industry Council and recreational fisher groups will be represented on the committees, but also each of these committees will include a person who has conservation expertise. Whilst the opposition supports the legislation, in debating the bill we have identified some deficiencies. I hope that the minister with carriage of the bill in this place will ensure that the Minister for Fisheries in the other place addresses those deficiencies at a later stage.

MR A.J. WADDELL (Forrestfield) [8.34 pm]: I thought about saying that we will remember today in infamy as a day that the government has overreacted to a minor report and given incredible taxing powers to one of its departments.

Mr C.J. Barnett: Could you explain that tie to me?

Mr A.J. WADDELL: It is a DNA tie; it is the double helix.

Mr C.J. Barnett: It is very striking.

Mr A.J. WADDELL: I thank the Premier very much. It is my statement in support of stem cell research.

The intent of this the Fish Resources Management Amendment (Fees) Bill is to allow a very honourable and useful system to come into play to allow the development and better interest fund component to continue without any question of making it a tax. We have heard from the minister today a commitment that for the life of this government it will cap these fees at 5.75 per cent. That pleases me a great deal, because it means that we will not see an increase coming through next year from the Department of Fisheries, which we have seen in recent times. However, this fee does concern me, and the fishing industry should mark 17 May 2011 in its calendar as the day it will remember it all went wrong. There is no doubt in my mind that the minister has said that this act does not necessarily require consultation with the industry. The amendments to this act are opening up the industry in such a way that we have to trust that the minister and the department will do the right thing; we have to trust that somebody in the Parliament will note that something has gone wrong somewhere along the way and will put a stop to it; and we have to trust that the government of the day will not simply rubberstamp that. We must trust that the right thing will happen in the future. To my way of thinking that is a lot of trust we are investing into the future as a result of an overreaction to a report that says powers had been overstepped. It would have been far more sensible for the government to have come into this place with a bill that simply identified the goal of creating the development fund and allowing that to be levied in some way against the industry and very nicely hypothecated for that particular purpose. There would have been no chance that in the future we would be going back to the industry saying that to balance our books and achieve that great bottom line, a triple A balanced budget, we need to slap a tax on fisheries. I apologise to future generations because we cannot guarantee that will not happen and that a future government will not ask that of them. We cannot guarantee any safeguards to stop that happening.

With those comments and that apology, I commend the big fat fishing tax to the house and I look forward to the next part of the debate.

MR W.R. MARMION (Nedlands — Minister for Environment) [8.38 pm] — in reply: I have a brief concluding comment to the third reading debate on the Fish Resources Management Amendment (Fees) Bill. I thank everyone for their support of the general intent of the legislation. Members opposite have made a mountain out of a molehill. At the end of day, all this bill is doing is clarifying a situation that was raised by the Joint Standing Committee on Delegated Legislation, whereas members opposite talked about other aspects of the act

Ms Janine Freeman; Mr Bill Marmion; Mr Chris Tallentire; Mr Andrew Waddell; Acting Speaker; Mr Mark McGowan

and its shortcomings in funding conservation groups. The objective of the Fish Resources Management Act is to ensure sustainability of the fishery stock. Any amendment to that act has to be for that purpose, otherwise it will contravene the act and the minister would be stepping outside its boundary. Therefore, there is already safeguard in the legislation. Members opposite do not need to worry about that; they are worrying needlessly. The point I make is that the funds collected will go to fisheries for the sustainability of the asset. There is no need to worry about conspiracy theories about money going to the wrong places. With those few concluding comments, I commend the bill to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.