

Legislative Council Standing Committee Inquiry into Property Rights 2019

Combined Zone C Association welcomes the opportunity to make a submission to the Legislative Council's Standing Committee on Public Administration in relation to their inquiry into Private Property Rights. CZCA represents zone C unit holders in the Western Rock Lobster Fishery which forms 50% of the industry. We fully support Western Rock Lobster (WRL) and Fishing Families WA (FFWA) in their endeavours to seeking amendments to ARMA in order to safe guard the access rights of fishermen & license holders as well as to protect the sustainability of the industry.

Previous instances of catch limits including the introduction of quota management resulted in major industry restructure with over two thirds of the commercial fishing industry leaving the industry. No government financial assistance supported these changes which led to significant social and economic hardships on individuals and coastal communities. The coastal towns have struggled to provide services such as Ambulance and Fire Brigade as town numbers diminished. Local businesses have struggled to survive. In Ledge Point the ambulance service was lost for two years until new volunteers could be found to restore the service to the community. The general store and café in Ledge Point have struggled and are currently in the process of closing down. Lancelin has experienced similar trends with the number of boats being reduced from 110 to 25. This has had dramatic effects on viability of the school volunteer services, medical facilities and businesses.

The Government's recent attempt to "nationalise" (allocate resource access for government purposes) a portion of the commercial lobster industry created significant uncertainty regarding the management of fisheries and the values tied to the present rights of resource access attributed to fishing licenses within managed fisheries. The strong industry reaction was unsurprising as it went against long history and practice in fisheries management in Australia and across the world. FFWA, a working group within CZCA, led the fight to get the Government to withdraw its proposal. The proposal created a lot of uncertainty and instability in the industry. Banks declined to approve loans to purchase Units of Entitlement in the Fishery because of the falling value of the units created by the Governments proposal.

The ARMA legislation should not allow for the conferral of commercial fishing resource access entitlements to the State or Agents of the State by Exemption or by inclusion in any fisheries management plan or ARUP under Part 3 of ARMA. The power of exemption under section 7 of ARMA for commercial purposes cannot be applied in a managed fishery or ARUP to any person other than a unit holder in the prescribed fishery and applied as a general exemption for all fishing licence holders as a class of persons in that fishery.

It is unreasonable for the State to burden commercial fishermen, with the costs of loss of property value by government for reasons of public benefit. For too long industry has had to

bear the brunt of any Government intervention. The taking of 10% of our units in 1986-87 was a classic example where there was no compensation or consideration given to MFL holders for their loss. Industry believes that Fisheries Adjustment Schemes Act (FASA) needs to be amended broadening the scope for effective compensation linked to resource access changes to underpin aquatic resource sustainability due to shifts in community requirements over time.

The Western Rock Lobster Industry seeks a more comprehensive compensation pathway for MFL holders & fishermen through legal statute. The compensation and market options are a fundamental requirement to ensuring industry are aligned with reallocation of access and loss of TACC for greater societal benefit. The State should align the Western Australian Constitution with that of the Commonwealth Constitution with respect to providing the same rights of compensation for the loss of property where it has been taken by government for the benefit of society's use.

Please find attached suggested amendments to the ARMA to accommodate securing/strengthening property rights. These changes were prepared by the ex-Solicitor General Paul D Evans. As an overview, the proposed amendments:

1. Remove the Minister's power to revoke the Plan, either under s. 273(4) of the ARM Act, or by implementing an Aquatic Resource Use Plan for Rock Lobster;
2. Fix the current units of entitlement by:
 - a. setting the maximum number of units of entitlement that may be conferred by all licences granted by the CEO under the Plan; and
 - b. creating a mechanism for the reallocation of units of entitlement from nonrenewed, cancelled or forfeited licences; and
3. prohibit:
 - a. the State or an agent of the State from applying for a managed fishery licence; and
 - b. the CEO from granting a managed fishery licence to the State or an agent of the State



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Executive Chairman

Combined Zone C Association