

FISHING INDUSTRY WOMEN'S ASSOCIATION OF WA INC

Submission to

Legislative Council

Standing Committee Inquiry into Property Rights

The Fishing Industry Women's Association (FIWA) was formed as a result of political decision making in the rock lobster fishery that threatened the sustainability and the appropriate management of that fishery. As a result FIWA always believed the biggest threat to fisheries sustainability is the lack of secure fishing rights. FIWA further believes that fishing rights need to be given the same status as other property and that property rights should be protected in the State Constitution as they are in the Federal Constitution.

FIWA understands that this position is opposed by the Fisheries section of the Department of Primary Industries and Regional Development. The Fisheries long held view that government must have the ability to remove the fishing rights of fishers without compensation at any time in the name of sustainability is something we reject. In fact we believe such a policy does the opposite. In the early days of lobster fishing when anyone could acquire a licence illegal activity was rife. When the then director of Fisheries, Bernard Bowen, introduced limited entry fisheries that conferred fishing rights illegal activity reduced to the extent that under the current more secure arrangements illegal activity is rare. Should fishing rights be substantially reduced the incentive to protect the fishery by obeying catch or effort restrictions is similarly reduced and that threatens sustainability.

The Parliament of Western Australia has for many decades led the world in fisheries management which led to the western rock lobster fishery being the first in the world to receive Marine Stewardship Council certification. Over this time the Western Australian Parliament has supported the introduction of regulations that have increasingly secured fishing rights that have, in turn, created greater sustainability. However, as we saw recently, such regulations can be amended by the minister of the day in a way that reduces fishing rights and threatens proper resource management.

It is FIWA's view that those areas of regulation and agreement that have created the currently relatively secure fishing rights should be enacted into legislation and that areas of the current legislation that reduce fishing right security should be amended or deleted.

The introduction of Limited Entry Fisheries that have now become Managed Fisheries has granted fishers proportional access rights to the commercial component of the Total Allowable Catch (TAC) for that fishery and Integrated Fisheries Management has allocated proportions of the TAC to the various sectors involved in the fishery. These measures need to be protected by legislation rather than be set by regulation as does the method of managing re-allocation by market based mechanisms. This, along with appropriate amendments to the Aquatic Resource Management Act 2016, would give secure right of access for commercial fishers.

Sections 21 (3) and 29 of the Aquatic Resource Management Act 2016 allow the minister to revoke an ARMS. FIWA believes that once an ARMS has been declared it should always remain in force and that these sections should be revoked. The Fisheries point of view, that such powers are needed is a fallacy. Once the access rights and catch proportions have been allocated the fishery can be managed entirely by setting the TAC. Should a fishery become so degraded that it is necessary to

stop all fishing the TAC is simply set at zero until such time as the fishery has recovered to the extent that fishing may recommence.

Section 16 of the Aquatic Resource Management Act 2016 needs to be amended to require the minister, when setting out an ARMS or ARUP, to grant the same fishing rights and sector allocations for each fishery that was a managed fishery under the previous Act as was provided by that Act, regulations under that Act or set out in Integrated Fisheries Management. Section 16 also needs to stipulate that once in force an ARMS shall remain in force.

Section 35 (3) and 37 (7) of the Aquatic Resource Management Act 2016 stipulate that fishing rights are not property under the provisions of the Personal Property Securities Act 2009 (Commonwealth) section 10. FIWA believes that either there should be an amendment to the Western Australian constitution to protect the property right nature of fishing rights or that these clauses should be revoked.

The main cause of fisheries collapse around the world is management decisions being made for political purposes. Granting secure fishing rights in the form of a property right removes the possibility of future mismanagement by a minister whose objectives may be political rather than for the purposes of sustainability.

The main point FIWA seeks to make is that fishers with secure fishing rights will see that ownership as a reason to do all things necessary to sustain the fishery while lack of secure fishing rights could lead to fishers seeking to make short term profits at the expense of long term sustainability. Therefore it is in the interest of the State to ensure secure fishing rights by creating a property nature for fishing rights. As the fishing right for any individual is only a right to a set proportion of the commercial proportion of the TAC there is no way granting such rights can inhibit the effective management of the fishery for sustainability.

FIWA would like to thank the Standing Committee for considering our submission.