

Hon Peter Foster MLC  
Chair  
Standing Committee on Environment and Public Affairs  
Parliament House - 4 Harvest Terrace  
West Perth WA 6005

## **WRITTEN SUBMISSION SUPPORTING PETITION NO. 066 – PROPOSED 8 OR 9 MONTH DEMERSAL BAN**

Thank you for your letter dated 14<sup>th</sup> October in relation to providing a written submission to expand on the issue raised in my petition. The right of a citizen to petition Parliament is one of the most ancient rights of the Westminster tradition allowing any individual to place grievances directly before Parliament. The record 17,887 signatures my petition accumulated in a little over six weeks demonstrates the importance of this issue and on behalf of these signatories I thank the Standing Committee on Environment and Public Affairs for their consideration. I highly encourage the Committee to also seek the views of [Recfishwest](#) who are the peak body for recreational fishing in Western Australia as they are likely to add significant value to assist with your considerations.

My petition asked the Legislative Council to review the proposal from the Department of Primary Industries and Regional Development (DPIRD) to ban demersal fishing in the West Coast Bioregion for between 8 and 9 months a year (the proposal) as I believe the proposal does not align to the objects of the Fisheries Resource Management Act 1994 (FRMA) which are;

- (a) to develop and manage fisheries and aquaculture in a sustainable way; and
- (b) to share and conserve the State's fish and other aquatic resources and their habitats for the benefit of present and future generations.

The FRMA also outlines 8 specific means by which these objects will be achieved including *achieving the optimum economic, social and other benefits from the use of fish resource*. The proposal put forward by DPIRD aims to maintaining catch levels to Integrated Fisheries Allocation (IFM) proportions set in 2012 and has shown no intent to achieve the optimum benefit from the use of fish resource as intended by the FRMA.

Section 14. (References to 2 or more provisions to be inclusive) of the Interpretation act 1984 states '*A reference in a written law by number or letter or by number and letter to 2 or more portions of a written law shall be construed as including the portion described by the reference first-mentioned and the portion described by the reference last-mentioned.*' meaning both objects of the FRMA should have been considered when developing the proposal.

When asked about my petition in parliament on 20<sup>th</sup> September 2022 the Minister cited section 4 (Precautionary principle) of the FRMA which states: *In the performance or exercise of a function or power under this Act, lack of full scientific certainty must not be used as a reason for postponing cost-effective measures to ensure the sustainability of fish stocks or the aquatic environment*. The Minister further stated *The first thing we have to address is the sustainability of the resource. Then we can look at all the implications for how that is managed...*

The McGowan governments Ministerial code of conduct acknowledges the significant discretionary power Ministers have and the need to set higher standards of conduct for Ministers than for other categories of elected office holders. The code states '*A Minister's responsibility to act as a trustee of the public interest should always be paramount in the performance of their functions*. It is my belief the Ministers February announcement to reduce fishing mortality in this fishery by 50% fulfilled the requirements of the precautionary principle and the 1<sup>st</sup> object of the FRMA however his decision to pursue these catch reductions in line with fishery allocations made in 2012 does not align to the 2<sup>nd</sup>

object of the FRMA and therefore the proposal does not conform to section 14 of the Interpretation Act of 1984.

My belief is supported by Section 18 (Purpose or object of written law, use of in interpretation) of the Interpretations Act 1984 which states '*In the interpretation of a provision of a written law, a construction that would promote the purpose or object underlying the written law (whether that purpose or object is expressly stated in the written law or not) shall be preferred to a construction that would not promote that purpose or object*'. The Ministers decision to pursue catch reductions for this fishery in line with fishery allocations made in 2012 lacked any consideration towards achieving the *optimum economic, social and other benefits from the use of fish resource*.

It is worth noting that when allocations for this fishery were set in 2012 they reflected catch history rather than the optimum use of the resource as the Committee that made the original [recommendations](#) upon which the Minister based his 2012 allocations did not have any contemporary objective socio-economic data. Consequently, this Committees recommendations were *contingent on the implementation of an appropriate re-allocation mechanism as soon as possible*.

The [Department of Primary Industry and Regional Developments website](#) states allocations are *likely to be fixed for a period of about five years* so it is safe to say developing proposals that continue to manage this fishery according to ten year old allocations that were contingent on reallocation ASAP is not appropriate.

Recreational fishers directly inject over \$2.4 billion dollars to the WA economy every year and fishing is a vital part of the WA lifestyle, with demersal fishing between Augusta and Kalbarri being very popular pastime amongst 1000's of West Australians. The proposed ban will not only affect the recreational fishing community it will also have a devastating flow on effect to many small businesses and families in both the metropolitan area and coastal regional towns, resulting in the loss of countless jobs and likely bankrupting many businesses. Should you require any further information in this regard, please do not hesitate to contact me on 0402332361

Yours sincerely

Tim Farnell

Principal Petitioner  
9 November 2022