



**The Hon Joe Francis MLA  
Minister for Emergency Services; Fisheries;  
Corrective Services; Veterans**

Our Ref: 51-10408  
Your Ref: Petition 088

Hon Simon O'Brien MLC  
Chair  
Standing Committee on Environment and Public Affairs  
GPO Box A11  
PERTH WA 6837

Dear Mr O'Brien

**PETITION 88 – SOUTH COAST CRUSTACEAN MANAGED FISHERY MANAGEMENT PLAN 2015**

Thank you for your letter of 7 April 2016 regarding the concerns raised by Hon Adele Farina MLC (the Member) in her letter to the Standing Committee on Environment and Public Affairs (the Committee) in relation to the *South Coast Crustacean Managed Fishery Management Plan 2015* (the Plan).

The Plan was developed through a process which commenced in 2008 to consolidate the management arrangements of three commercial rock lobster fisheries and a fishery for deep-sea crabs operating on the south coast of Western Australia into a single, new, managed fishery management plan. The fisheries consolidated under the new Plan were the Windy Harbour-Augusta Rock Lobster Managed Fishery, the Esperance Rock Lobster Managed Fishery, the Southern Rock Lobster (SRL) pot licence fishery (operating under Regulation 125 and 126 of the *Fish Resources Management Regulations 1995* relating to rock lobster fishing on the south coast outside of the two managed fisheries) and the deep sea crab fishery operating under Fishing Boat Licence Condition 105.

In the context of the Member's letter to the Committee, Fishing Boat Licence Condition 105 was a "permissive condition".

"Permissive conditions" are an artefact of historical fisheries administration in Western Australia (WA) and over time the Department of Fisheries (Department) has been transitioning access previously or currently provided through "permissive conditions" to other authorisations (such as managed fishery licences).

Notwithstanding, there remain a number of fisheries where access is provided by way of a "permissive condition". It is the Department's intention that access to these fisheries will be transitioned to an alternative and preferred authorisation prior to the commencement of the *Aquatic Resources Management Bill 2015*, that is currently before Parliament.

Pending transition to other forms of authorisation, the access rights bestowed through, and the fishing undertaken under, "permissive conditions" is treated as legitimate and the fishing history that relates to that activity is real and relevant.

The use of fishing history (including history relating to fishing undertaken under "permissive conditions") for the purposes of allocating entitlement is common practice in WA and is legislatively robust.

The incorporation of authorisations with "permissive condition" 105, into the Plan using catch history created under those conditions to inform the allocation of entitlement (in this case expressed as a number of pots) was appropriate and valid, and a key part of the formal process for transitioning those authorisations into Managed Fishery Licences.

The assertion that my predecessor misled the Committee on the impact of the allocation decision on SRL fishers through the implementation of the Management Plan is incorrect. As outlined in my predecessor's response to the Committee on 9 September 2015, there was no formal allocation of entitlement (pots) to SRL fishers or the deep sea crab fishers operating under "permissive condition" 105 prior to the gazettal of the Plan. As such there was no "reallocation" of entitlement between rock lobster and deep sea crab fishers through this process.

In addition, my predecessor's response to the Committee of 9 September 2015 outlines the significant consultation process that led to the final allocation decisions through the implementation of the Plan. Part of this consultation included the release of an Independent Panel's recommendations (on the allocation method) to industry as well as the release of the then Minister's in-principle allocation decisions based on the Panel's recommendations. The then Minister's letter of August 2013 outlined the intention to combine deep sea crab and SRL catch to form a single entitlement (i.e. for the purpose of the initial allocation and to permit fishers to take both rock lobster and deep sea crabs). This direction was taken not only to simplify the allocation methodology and future management arrangements between SRL and deep sea crab fishers, but to also provide additional flexibility for their fishing operations. At that time, the then Minister's in-principle allocation decisions outlined through the above consultation process, were supported by all respondents.

It is clear to me that the lengthy consultation process that led to the implementation of the Plan was robust and that despite the assertions made by the Hon Adele Farina MLC, I am satisfied that, in making his final decision, my predecessor considered the impact of the allocation methodology on all fishers.

Thank you for providing to opportunity to comment on the matters.

Yours sincerely



HON JOE FRANCIS MLA  
MINISTER FOR FISHERIES  
17 MAY 2016