



# Wildcatch Fisheries SA

Wildcatch Fisheries SA Inc| PO Box 2099 DC Port Adelaide SA 5015

ABN 92 147 769 558

p 08 7221 1960 | f 08 8303 2671

e [office@wfsa.org.au](mailto:office@wfsa.org.au) | w [www.wfsa.org.au](http://www.wfsa.org.au)

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Australian Marine Fisheries and Aquaculture  
Productivity Commission  
GPO Box 1428  
Canberra ACT 2601  
[fisheries.inquiry@pc.gov.au](mailto:fisheries.inquiry@pc.gov.au)

Dear Sir/Madam

## ***Inquiry into the Regulation of Australian Marine Fisheries and Aquaculture Sectors***

Wildcatch Fisheries South Australia Inc. (WFSA) is the peak industry body representing commercial fishers in South Australia.

Please find below Wildcatch Fisheries SA's responses to the specific issues raised in the inquiry into opportunities to increase productivity and cut unnecessary and costly regulation to Australian Marine and Aquaculture Sectors.

In Australia the jurisdictional allocation of fisheries responsibility has had major implications for the effective management of fisheries resources. Despite reviews in 2003 and 2012 it is apparent that the aim of the Offshore Constitutional Settlement (OCS) which was '*designed to provide a more effective management structure for Australian fisheries and to remove some of the complexities that arose because of divided Commonwealth and State jurisdiction*' has been missed and its value has been eroded.

Currently in South Australia there are several issues faced by industry. These include:

- Lack of transparency within the current cost recovery framework;
- Lack of social licence;
- Lack of access security;
- Poorly defined rights;
- Politicised decision making;
- Inadequate allocation and management of fish stocks;
- Inability of current management frameworks to quickly adapt to changing conditions (adaptive management);
- Inability of current management frameworks to promote growth and embrace change (progressive management);
- Inability of current management frameworks to promote efficiency;
- Lack of Government support for current regulation and management arrangements (evident with both EPBC and Fisheries Management where Government applies a set of principles for managing performance yet don't stand by these principles)

### **Australian Fisheries:**

Fish stocks are generally not adequately allocated or managed in most jurisdictions and where there are forms of allocation they are largely not adequately monitored and managed due to the disparity in information gathered on the competing users. In most cases recreational fishing is not well monitored or regularly assessed let alone managed to comply with any national allocations of the resource between the various users and ultimately the owners of those resources.

Our fish stocks are a "community" resource yet invariably in recent decades the rights of the vast majority of Australian's has been compromised to provide benefits to the small section of the community that chooses to take that common property resource for their personal recreation rather than to ensure the resource benefits all of its owners particularly as Australian's are increasingly demanding access to fresh local seafood as part of the growth in healthy eating and increasing recognition of the social value from consuming our sustainable fish stocks.

Many fisheries acts provide for outcomes such as "optimum utilisation" yet make no attempt to define what this should mean. This leaves the debate over access and allocation uncontrolled and open to interpretation and inconsistent application. Clearly define what is expected of managing the competing uses and how you will value their contribution would do much to remove the angst and anguish in fisheries management in Australia.

While there are various attempts made to assess the economic benefits and best returns from both commercial and recreational fishing there is no consistent approach to this process. This failure is despite the FRDC funding the development of a model to effectively value the competing interests in a robust manner. This model is set out in "Framework for Valuing Australia's Fisheries Resource Use" by Prof Tor Hundloe (FRDC 198/165).

### **Commercial fishing**

Fish stocks are largely not allocated and managed effectively in most jurisdictions, even in South Australia. In South Australia each fishery management plan now contains an explicit share of the resource to the commercial, recreational and Traditional sectors. The capacity to effectively monitor and manage these allocations is still problematic given the disparity in information and the periods of reporting by the different user groups.

Addressing the conflicts that arise from insecure rights and allocations to all groups there needs to be a greater commitment by governments, particularly at a state level, to ensure they invest adequate resources into resource research, monitoring, management and compliance that would support any real process for allocation management.

Within Australian fisheries it has been predominately the food production sector (the professional fisheries) that have had their allocations and access rights constantly diminished and their ability to deliver against their statutory responsibility to provide fish to the Australian community. This constant diminishing of their rights has led to significant losses to regional communities across the country. These impacts have been large scale unemployment in small communities, loss of economic activity and loss of infrastructure.

One of the key failings in management of our commercial fisheries has been the consistent and persistent failure of the various management agencies to adequately inform the community of their high levels of regulation to ensure resource sustainability and ecological protection

through regulation of fishing activities and gear. Many in the Australian community believe the unbalanced and ill-informed views promoted by the environmental NGO's to substantiate their purpose and secure increased funding to "save the world's fish stocks". The view that our fisheries are no better than the overexploited North America and European stocks is a great failing of all governments in Australia.

Conflicts and overlaps between competing groups can only be resolved when there are clear rules governing the allocation of resources between the food production sector and the recreational sector. Those allocations must be adequately extended to the community so they understand the implications for failure to meet the obligations for sustainable management will compromise their fish stocks. This process must be underpinned by much more robust process for monitoring and reporting on each allocated sectors extractions to underline the need for effective and timely management.

Regulation and management arrangements must promote efficiency, innovation, promote the industry and embrace change and not be a politicised arena that stifles this progress.

### **Regulation of commercial fishing**

In general fish stocks have adequate management frameworks to secure sustainability. However, these frameworks are compromised by a lack of clear rules for allocation, access and decision making (such as the use of harvest strategies with decision making frameworks) for adjusting effort or catch as needed to underpin sustainability.

Harvest strategies have a strong role in enhancing our fisheries management processes where they have clear rules to drive management adjustments in line with the performance measures established in each fishery or species strategy. The adoption of harvest strategies nationally would do much to change the landscape for managing fishers and bring the diverse recreational interests into a process that makes it clear where their and other users obligations exist to act for common benefit.

While quota management processes work well for many species, there are limitations to this approach in multi-species fisheries. The use of input controls, coupled with effort unitisation and other mechanisms that provide clear levels of access right are effective for managing fish stocks.

The use of quota or unit trading can function effectively provided that there is effective regulation (or de-regulation). There is a place for some controls over the trading of some quota where there are strong social or economic imperatives identified by the industry such as supporting regional industry or employment. This would be similar to the caps on water trading within the Murray Darling Basin.

The key barriers or influences in innovation are largely contained in the high level of regulation governing fishery gear types and specifications and in limits on boats and other access arrangements such as area or seasonal closures. In all jurisdictions there is a lack of commitment to review and remove or adjust regulations on a regular and relatively short time period. In many cases regulations that exist today were implemented in the 1970's, 80's and 90's many of which are no longer appropriate and in many cases the basis for the regulation has been lost in the mist of time and myth. The high turnover of fisheries management staff ensures that much corporate knowledge is lost and is poorly retained within the agencies so there is little understanding of their real purpose and a reluctance to revisit the regulation and

remove it where it no longer is relevant. All regulation should have a compulsory review period of no longer than a decade.

Arrangements are often designed to avoid innovation. This is in fact the very principle behind simple input controls. Arrangements must actively promote innovation and be supported by government agencies. Simply implementing innovative tools that promote efficiency is not enough. Measures that actively encourage innovation and trials must be included in any arrangements. Departments must support not hinder this investment. Change must be promoted on commercial time frames – which is months not decades as is currently the case.

### **Recreational fishing**

Most recreational controls are largely ineffective. While their intent is honourable the ability to monitor and control the actions of hundreds of thousands of recreational fishers is totally beyond the ability of the states to control given the level of investment they apply to it, even in those state's that collect a recreational access fee.

Recreational fishers invariably only understand their impact on fish stocks and have little appreciation of the collective impact of many thousands of others, like themselves, in those stocks. There is clear evidence that there is also further a lack of conscious and a deliberate intent as they can, in cases such as the South Australian blue crab fishery, deliberately choose not to comply with catch limits and size limits even when compliance officers provide them with the tools to comply prior to their fishing activity on the day.

The regulation of commercial fishers has become the core role for many recreational groups who do not understand fisheries management and see their personal values as outweighing the collective need for all Australian's to be able to have access to their fish stocks.

In many cases recreational rights and allocations are not well defined, leading to many of the issues that arise in recreational fishers, as there are no clear boundaries to their behaviour in ensuring sustainable management.

Recreational fisheries are inherently data poor; this includes a dearth of accurate or comparable economic data series. In basic economic terms recreational fishing expenditure is classified as consumption through the use of disposable income, whereas commercial fishing GVP creates primary wealth (Loveday and McPhee in 2004).

*Comparing expenditure against GVP is a comparison between 'apples' and 'oranges' when an 'apples' with 'apples' comparison is required (Hundloe 2002). No matter how accurately expenditure is measured, it cannot, by itself, determine how resources should be allocated between competing users to maximise economic benefits (Cauvin 1980; Edwards 1991; Li 1999; Hundloe 2002).*

In a fishery where recreational access is shared, there is a need for clearly defined allocations and rights. 'The fishery is harvested by two sectors – recreational and commercial. The recreational fishery at the 2013-2014 survey indicated that there were 277,000 recreational fishers. To use a phrase from their charter – they aim to catch "enough fish for their immediate needs". The other sector has approximately 1.3 million people in SA (plus interstate) who enjoy eating our local fish, but do not go fishing. They rely on 280 marine scale fishers to act as their agents to catch high quality fish from SA waters for their consumption. All South Australians, in either of the sectors described above, have equal rights of access to SA marine fish.' – Don

Morley, Port Hughes, South Australia, "Allocation of fish stocks" - Yorke Peninsula Country Times, 16/03/2016.

The key tensions between recreational and commercial fishers is the perceptions about rights and shares largely driven by a lack of education and awareness of what effective resource management means. This education should not be driven by glossy brochures promoting size and bag limits but effective education in understanding the collective costs of their actions on the stocks and for that matter the marine environment. Many recreational fishers consider they have an inalienable right to take what they want or need, yet have little appreciation of what that means. Effective regulation of recreational fishers must be based on a licensing regime that tests their appreciation of what effective management means and ensures they acknowledge their obligations for responsible behaviour as user of a common property resource.

In jurisdictions such as South Australia, governments have persistently abdicated their responsibility for effective management of our fish stocks as there is little effective compliance activity and no effective funding to support research, monitoring and compliance. In South Australia the commercial fisher's fund, through cost recovery, over half of the compliance officer's positions to manage in the order of 800 licensed fishers, while the 270,000 recreational fishers are subject to monitoring and compliance by less than 20 officers across the State.

Where recreational fishers don't pay licence fees, funds must be provided from general revenue to cover the budget for management, compliance and stock assessment. In South Australia, there is no transparency as to how much money is provided and without such it is alleged that considerable cross subsidisation takes place from the cost recovered fees paid by the commercial sector.

The failure to have a robust funding base to ensure that there is investment in research, management and compliance for and by recreational fishers has seen the ability to support effective fisheries management compromised for over a decade.

### **Indigenous fishing**

While there is recognition of Indigenous interest in South Australian fisheries legislation, there are poor levels of engagement by Aboriginal persons. Where they have had the offer of direct input into the management process, such as in the Lakes & Coorong fishery it has proven difficult to engage them and obtain consistent participation. Also, when offered opportunities for training and mentoring by fishers, there have been poor rates of entry to commercial fisheries.

### **Illegal fishing activities**

While for some high value species there are clearly organised groups "poaching" fish such as abalone, in large part most recreationally accessible fisheries have high levels of illegal fishing. This can range from non-compliance with bag limits to many in regional communities that fish more often than their professional neighbours and turn over their catch at high rates.

There is an unfortunate attitude in many communities that those that do it are merely making ends meet and have a "bushranger" like status where some in the community assist them through the purchase of fish and in providing advice to avoid compliance activities. These activities have a strong role in compromising our fisheries management processes and stock sustainability, although it is not recognised by the community.

In South Australia we have a Fisheries Minister with a conflicting portfolio in Tourism. As such, fisheries compliance is compromised as there is a fear that effective fisheries management and enforcement may hurt tourism, particularly in regional communities. Having said this, placing the role of monitoring and compliance into the hands of environmental NGO's (with a business model that promotes a non-fishing platform) would not be acting in the best interest of the industry or the community.

### **The management of Fisheries:**

#### **Multi-jurisdictional governance**

While fisheries legislation across Australia has many similar objectives there is little in common and consistency in how these are administered and the systems that support them.

Core objectives for fisheries management should not just be based on stock sustainability but must be driven by effectively generating economic and social benefit to the owners of the resource and in providing for the production of a key food source that underpins food security.

There is much that could be achieved by centralising the control and management of many species that cover multiple jurisdictions. This would include consistency in management, a better focus of research on the stocks as a whole and therefore greater certainty over sustainability. We have many stocks that straddle jurisdictions and those stocks must be managed under a common management framework.

To ensure the community gets the best return from its use of a common property resource there must some clear social objectives that underpin management processes. While these objectives should have primacy the decisions made in achieving sustainability requires a balancing of a range of social and economic objectives that underpin production of food and the need to support communities particularly the most vulnerable regional communities where there are limited opportunities for growth and employment.

The use of OCS agreements was at the time and effective tool to improve co-operation in management between jurisdictions. This process has now become limited in the context of modern management and as such the next iteration in management structures is needed. This next phase of fisheries management development needs to move away from the insular commonwealth, state and territory jurisdictional arrangements and take a more holistic approach where management uses regional bodies that oversee the management of straddling species and the benefits of more efficient management that can be obtained for fishers and the stock.

There are a number of examples of straddling stock species in South Australia (some are shown below) with different management approaches to a common stock, even though there may be some regional sub populations:

SPECIES	JURISDICTIONS
Mulloway ( <i>Argyrosomus japonicas</i> )	South Australia, Victoria and New South Wales and Queensland
Snapper ( <i>Pagrus auratus</i> )	South Australia, Victoria and Tasmania
Southern rocklobster ( <i>Jasus edwardsii</i> )	South Australia, Victoria and Tasmania

The current jurisdictional arrangements for fisheries management had led to a silo approach to management and information. While this approach has been broken down with regard to data sharing in recent times the management processes are still very tightly controlled by the different jurisdictions each with different approaches to management, co-management, resource sharing arrangements and in some cases different duplicated research. This has been helped by the Fisheries Research and Development Corporation driving greater sharing of research programs across jurisdictions.

The failure to act co-operatively has a direct cost to the industry and the resource users as it has meant that decisions have been made in isolation which have or may well have led to overly conservative management decision limiting the industry's ability to generate product and therefore economic value from the resource.

### **Management and governance models**

#### **Co-management**

The principle of co-management leading to a sharing of responsibilities for decision making, is a concept strongly supported by the industry. The role of devolved decision making is important in ensuring a greater commitment to responsible management of commercial fisheries. The role of Government (the regulator) should be one of shared decision making and auditing against agreed management targets and performance indicators.

Co-management is supported by the creation of effective harvest strategies and allocation processes which ensure the core responsibility for sustainability is secured within those processes.

While South Australia has a sound policy base for co-management, to date there has been little commitment to devolving responsibility and sharing of decision making. At present the processes in South Australia are considered by industry to be a co-function not co-management. There are no standards of accountability placed on management agencies for their support of shared decisions and no formal commitment to a mediated or third party review between industry advisory/recommending bodies and the ultimate decisions of Government, (Appendix 1 – Audit of co-management status of South Australian commercial fisheries, Peter Neville, February 2015).

In order to foster co-management, Government must ensure that industry has secure funding from all commercial beneficiaries. This certainty will enable industry to effectively manage the process of engagement and consultation with its sector groups and ensure it can support processes for decision making. These processes should include independent chairpersons, administrative support, expert third party advice and the like. In some cases, this could also include the delegated responsibility of some management processes currently contained within Government agencies.

While this may be critical of South Australia's situation, the poor state of fisheries management and industry/Government relations in other jurisdictions is in part a product of the failure to engage or encourage industry to take a more active role in co-management.

#### **Accreditations**

Investment in third party accreditations is in part driven by the industry's need to have its management processes assessed and certified in order to demonstrate its commitments to

meeting statutory responsibilities. The failure of Governments to promote and support their own management regimes is a major contributor to the misinformation promoted about sustainability of our seafood and environment. The need to promote a social licence for licenced commercial fisheries stems from a lack of commitment to the industry by all Governments.

In the absence of Government's willingness to review current management arrangements, third party processes often provide the only opportunity to evaluate the performance and efficacy of fisheries management regimes.

#### **Cost recovery in managing fisheries**

One of the major issues faced in South Australia is the application of Government's Cost Recover Policy. Wildcatch Fisheries SA, on behalf of its members has persistently requested resolve on many aspects of this, namely:

- Transparency of the cost calculations relating to actual services delivered;
- Transparency of how the time allocations are calculated, and how these time allocations reflect the actual services delivered, and
- Transparency in the cost allocation between sectors/activities.

Fundamental to cost recovery should be the legislative obligations of efficiency and cost effectiveness as set out in the Fisheries Management Act 2007.

The principles of cost recovery are established through previous reviews by the Productivity Commission and the Australian Government Cost Recovery Guidelines (July 2005). The framework adopted in South Australia whilst purporting to be based on the above is in large part deficient against the above standards. The absence of transparency in determining costs and the nature of the services delivered makes the current process simply budget driven rather than service and efficiency driven.

Regular and transparent reviews of cost recovery arrangements should ensure they properly reflect conditions and continue to meet desired objectives.

"The primary objective of commercial fishery cost recovery should be efficiency. The main aspects of efficiency that are relevant for designing the cost recovery arrangements include:

- *an incentive for efficient service costs.* This aspect of efficiency is concerned with developing and implementing cost recovery arrangements that ensure services are provided at an efficient cost. The cost recovery system should incorporate incentives to drive efficiency.
- *the efficient allocation of resources.* This broader aspect of efficiency ensures resources are directed to their most valued uses across the economy. Cost recovery arrangements that signal, to both the government and the service consumers, the full cost of providing services supports broader efficiency. This transparency of costs can inform whether benefits exceed costs and ensure the amount of services provided and consumed reflects the value placed on them."<sup>1</sup>

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<sup>1</sup> Commercial Wild Catch Fisheries and Aquaculture Cost Recovery Review, Evaluation Report 12.01, October 2012

Despite the Government commissioning reviews<sup>2</sup> of its cost recovery processes, there is no evidence of any efficiency dividends nor of any action to address recommendations relating to improvements within their system.

Primary Industries and Regions South Australia (PIRSA) has a stated economic development purpose.

WFSA find the application of the Cost Recovery Policy and subsequent cost recovery process not transparent and lacking accountability as to the provision of appropriate and efficient services and PIRSA's targets for cost recovery are not clear and equitable between users of those services as required by the Fisheries Management Act.

It is recognised that there is an advantage, particularly for the Government, to consolidate the scientific and technical resources for managing fisheries and marine resources in South Australia. There are minor advantages to fisheries' to maintaining the collective knowledge. The main advantage for the Government is that they can call upon advice with respect to major developments or natural events such as fish die offs, as we have recently experienced. The disadvantage of the system, from a user pays perspective is that there is no competition to manage costs, and inherently with large organisations (government or otherwise), there are bureaucratic costs and overheads that will not transfer to directly benefit the fishery and are not related to service delivery at the most cost efficient rate.

PIRSA advised industry in 2014 that they would engage the South Australian Research & Development Institute (SARDI) Aquatic Science Centre to provide stock assessment and monitoring services for all South Australian Fisheries without any competitive tender process and for an undisclosed period. We believe this to be both anticompetitive and inherently more expensive to industry than the equivalent service from private enterprise.

Managing the aquatic resources of the State to protect them from over exploitation is a fundamental legislative obligation of the Fisheries Management Act 2007 and also the number one priority of every commercial fisher. The fishery dependent data provided by every commercial fisher is critical to ensure sustainable economic and ecological exploitation of the State's fisheries resources and understanding the health of our marine ecosystems.

SARDI has been developing stock assessment reports for well over two decades as PIRSA's preferred provider. Through this time there has been no independent assessment of the value, efficiency and the cost effectiveness of the services provided.

Now that it has been advised that SARDI will continue this role without competition, it is considered prudent, necessary and required in the interests of transparency, compliance with existing policy and in the absence of competition SARDI's efficiency and associated overall costs are evaluated to ensure that the industry is not subsidising elements of public good of maintaining the institute.

We refer in particular to:

1. PIRSA's policy on cost recovery (Appendix 2) and in particular

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<sup>2</sup> Review of Fisheries Cost Recovery Policy, Deloitte, February 2009 and Review of PIRSA's Cost Recovery Policy and practices, including their application to the Fisheries and Aquaculture Industries, Deloitte Access Economics, July 2015

The core ingredients of valid cost recovery are:

- 1.1 Full transparency of the costs sought to be recovered (re; who, why, how, where, when and how much).
  - 1.2 Recognition of the public good component – including the recognition that Government agencies have a public face and are publicly accountable requiring methodology and systems inherently more expensive than private enterprise.
  - 1.3 Efficiency in service delivery – if that cost is sought to be recovered.
2. PIRSA's policy on Co-Management (Appendix 3):
    - 2.1 A more transparent and efficient cost structure, and more efficient delivery of services and functions.
    - 2.2 Potentially, but not necessarily, lower costs of management.

By these policies Industry should pay no more for the scientific services required for statutory compliance than the proper cost of supplying those equivalent services. If PIRSA elect a significantly more expensive option – it should not be at the cost of industry.

The seafood sector contributes approx. 20% of the entire PIRSA budget in cost recovered fees, representing over \$100 million which has left the South Australian regions over the last 14 years. This has supported mostly metropolitan based public servants and operational costs only.

It is well documented (Econsearch) that the seafood sector has flow on benefits of between 3 and 8 fold to the state economy, depending on the sector. This \$100 million depletion from the regions has inevitably impacted on the wild catch industries' abilities to innovate, to increase productivity and profitability, build export capabilities and values.

#### **Meeting environmental objectives**

The Precautionary Principle is clearly defined however, the application of precaution in itself is a greater problem. It is first and last, an excuse for inaction or restriction and needs far clearer definition and is used by competing agencies to promote their own role and purpose within the management of the marine and estuarine environments.

With the implementation of marine protected areas around Australia came a whole new layer of legislation and regulation despite repeated commitments from successive Governments at State and Federal levels to reduce red and green tape rather than address the real threats to marine biodiversity through existing legislation. The subsequent outcome has produced very complex and expensive islands of perceived sanctuary in a sea of management that has reduced supply of sustainably harvested seafood and in many cases added to operational and production costs to fishers.

Efficiencies could be made by streamlining competing agencies so that one standard and approach is adopted to the management of fisheries resources and the ecosystems in which they exist.

Creation and recognition of effective fisheries management strategies and monitoring and reporting arrangements should obviate the need for two or more agencies being engaged in regulating fisheries. The EPBC Act could recognise those processes as meeting its obligations for protection of fishery resources for use within the Australian and export markets.

Current duplication of management of Threatened, Endangered and Protected Species (TEPS) between fisheries and environment agencies in all jurisdictions must be streamlined to reduce regulation. This is imperative as we are in a period of significant population recovery of a number of species such as Great White Sharks, New Zealand fur seals and some cetacean species which are having significant impacts on fisheries and their operations. It is necessary that fisheries management processes prescribe actions that ensure minimal mortalities of TEPS however, there must be recognition that where these species are more abundant we must balance the need for food production with security for those populations.

**Fish processing, wholesale and retail**

The playing field upon which commercial fishers have to supply and trade is not level nor fair. Imported seafood is not scrutinized to the same standard as locally produced seafood and there is no ability for the consumer to make an informed choice when considering purchasing seafood.

Government is seen to hide behind the trade restrictions; but in reality the level of regulatory burden applied to locally produced seafood substantially increases production costs that in most cases must be absorbed when competing with imported seafood.

Governments rarely if at all provide support to fishers or downstream related businesses in exceptional circumstances. Instead they chose to simply remove commercial fishers at a heavily discounted rate often after years of hardship rather than to address the issue causing long term devastating effects on the downstream businesses and communities.

I am happy to discuss this further and/or provide any clarification necessary.

Kind regards

**Franca Romeo**  
**Executive Officer – Wildcatch Fisheries SA Inc**