



Department of Fisheries
Government of Western Australia



Fish for the future

FISHERIES MANAGEMENT PAPER

FISHERIES STATUTORY MANAGEMENT AUTHORITY INQUIRY BACKGROUND PAPER

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Fisheries Statutory Management Authority Inquiry
Background Paper

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1. INTRODUCTION

1.1 Background

In October 2002, the Minister for Agriculture, Forestry and Fisheries (“the Minister”) announced an inquiry into the feasibility and desirability of establishing a single Statutory Management Authority (SMA) to administer Western Australia’s fisheries.

Discussion about a possible statutory authority model for Western Australian fisheries is not new. The matter was considered in 1994 as part of the then Government’s review of the Fisheries Portfolio. Ultimately, the decision was taken to retain a single Department, albeit restructured. The matter was placed on the agenda again in 1998 when the Western Australian Fishing Industry Council (WAFIC) provided a case to Government for the establishment of a statutory authority. In response, WAFIC was advised that from a Government perspective, neither the then Minister for Fisheries nor those principally responsible for the machinery of Government supported any shift of (then) Fisheries WA’s role and functions to that of a statutory model.

The current Labor Government is committed to proceed with the next logical stage of inquiry into the desirability and feasibility of establishing a Western Australian SMA to administer the State’s commercial fisheries. Government made it clear however, through its pre-election platform in 2000, that commitment to this course denoted neither support nor opposition to the concept of a SMA, but rather a willingness to consider the option on its merits. While the election commitment relates to commercial fisheries, the inquiry will extend to all programs within the Department.

In early 2001, the Premier formed a Taskforce to review the Machinery of Western Australia’s Government. The Taskforce considered the option of merging Fisheries WA into a single Department of Agriculture, Fisheries and Forests, in accordance with the Government’s pre-election policy on restructuring the public sector. The Taskforce concluded that the inquiry into a SMA should precede any moves to integrate Fisheries WA with another body. It was noted by the Taskforce that this position was strongly advocated by industry stakeholders, notably WAFIC and Recfishwest.

On a related point, the Taskforce also found that the number of statutory authorities in WA was excessive and recommended that a statutory authority should be established only if its proposed functions cannot be performed by a department or it would be inappropriate for them to be performed by a department. It also recommended that the functions of each (existing) statutory authority should be reviewed to assess the appropriateness and feasibility of incorporating those functions into departments of State. These recommendations were subsequently supported by Government.

1.2 Terms of Reference

The terms of reference for the SMA Inquiry as endorsed by the Minister are:

1. To examine and report on the desirability and feasibility (including advantages and disadvantages) of establishing a WA Statutory Management Authority to administer the State's commercial and recreational fisheries, pearling and aquaculture sector, and protection of fish and fish habitats ("the State's Fisheries"), taking into particular account the:
 - efficient and effective delivery of fisheries management;
 - implications for the role of the Minister, Government and key stakeholders;
 - the direction of integrated fisheries management;
 - options for funding and revenue raising;
 - possibility of administering the state's commercial fisheries only under a Statutory Management Authority;
 - current Western Australian Government policy on statutory authorities;
 - delivery of services to other crown Agencies, either Commonwealth or State.
2. If a Statutory Management Authority was to be established for the administration of the State's Fisheries to report on the appropriate structure, role, functions, legislative framework, accountability processes, performance measures and involvement of stakeholders.
3. If a Statutory Management Authority was not to be established for the administration of the State's Fisheries to report on any changes that could be made to improve the existing Departmental structure, role, functions, legislation, accountability processes, performance measures and involvement of stakeholders taking into account any recommendations arising from the current Government's Review of the Effective Delivery of Government Priorities.

1.3 Inquiry Process and Timeframe

The Minister has appointed a Ministerial Advisory Committee ('Advisory Committee') to report to Government against the Terms of Reference for the Inquiry. It is proposed that the Committee will prepare a draft report for public comment by mid-2003 with a final report to Government by the end of 2003/early 2004. This will allow a final Government position to be announced during 2004. This background paper forms the first part of the process and will be one source of information for the Advisory Committee.

1.4 Objectives of this Paper

The objective of this paper is to provide factual background to the issues that are likely to be relevant to the Advisory Committee's considerations and to the interests of stakeholders. It also pulls together relevant reference material and experiences from within WA and from other fisheries jurisdictions in Australia.

The paper does not deal with jurisdictions outside of Australia or outside of fisheries on the basis that there is considered to be sufficient reference material available within these jurisdictions to enable fair coverage of the issues. This, of course, does not preclude other information being drawn to the attention of the Advisory Committee or considered during the Inquiry process. In addition, while the paper does not explore overseas fisheries management models, this is not to suggest that the Advisory Committee should not examine these models for relevance or that particular models should not be drawn to the attention of the Advisory Committee as part of the Inquiry process.

The paper will be used by the Advisory Committee, stakeholder groups and the general community to assist consideration of the issues around the possible establishment of a SMA for Western Australia's fisheries.

2. OVERVIEW OF WESTERN AUSTRALIA'S FISHERIES

Western Australia's aquatic environment, with its significant resource of fish, is one of the State's most valuable assets. This value lies not only in what can be harvested on a sustainable basis from the ocean, but in the physical environment of the sea itself that shapes the lifestyle and culture of the people of Western Australia and attracts the many tourists who visit the State each year.

In 2000/01, the gross value of production for commercial fisheries (including pearling) production was estimated to be in excess of \$500 million¹, with significant export value. Commercial fishing employs the direct equivalent of 5,000 people with a further 8,000 jobs in associated industries such as ship building. The estimated aggregate impact of fishing on the State's economy is approaching \$1 billion. The industry is a key driver in the development of regional Western Australia with many of the major fisheries such as rock lobster and prawns located outside of the metropolitan region.

Aquaculture is a relatively new and vibrant industry in Western Australia. Government has invested in the order of \$15 million in aquaculture development which has seen commercial and pilot development in mussels, trout, freshwater crustaceans, finfish, abalone, prawns and pearl oysters. The State also has a well-developed industry for the production of algae for beta-carotene for the food industry.

A summary of Western Australia's commercial fisheries and aquaculture production for key species during 2000/01 is provided at Appendix B.

In addition to the commercial sector, an estimated 600,000 Western Australians generate a further \$570 million in annual economic activity from recreational fishing and aquatic eco-tourism. It is estimated that the recreational fishing sector creates up to 11,000 jobs (direct and indirect) with particular importance in regional centres. Key recreational species include rock lobster, abalone, marron, crabs and finfish species such as herring and whiting.

Through the proclamation of new fisheries legislation in 1994, the Department has been able to take a more active role in the sustainable management of the State's marine, estuarine and riverine ecosystems. The Fish and Fish Habitat Protection Program works across all sectors to ensure that Western Australia has healthy fish habitats and aquatic ecosystems which support sustainable fish populations and thriving aquatic communities. This work is achieved through a variety of mechanisms including the establishment of Fish Habitat Protection Areas.

¹ Department of Fisheries.

3. CURRENT ARRANGEMENTS FOR FISHERIES MANAGEMENT IN WESTERN AUSTRALIA

3.1 Institutional Arrangements

The Governor in Executive Council has approved of the administration of the following acts being placed under the control of the Minister for Agriculture, Forestry and Fisheries:

- *Fish Resources Management Act 1994 (FRMA)*
- *Pearling Act 1990*
- *Fisheries Adjustment Schemes Act 1987*
- *Fishing and Related Industries Compensation (Marine Reserves) Act 1997*
- *Fishing Industry Promotion Training and Management Levy Act 1994.*

The Department of Fisheries, established and designated under the *Public Sector Management Act 1994*, is the agency principally assisting the Minister in the administration of these Acts.

Under the Acts there is a division of power between the Minister and the statutory office of the Executive Director. In broad terms, the Minister initiates the statutory framework for fisheries management and establishes the policy settings. The office of the Executive Director carries out normal Departmental operations to meet fisheries management objectives and general administration of the Department. He also exercises statutory discretions in the grant of licences and associated fishing entitlements.

The State fulfils its statutory responsibilities through the identification, provision and integration of necessary research, management, compliance and administrative services towards one outcome –

‘Conservation and sustainable development of the State’s fish resources’.

This is achieved through four outputs:

- Commercial Fisheries
- Recreational Fisheries
- Pearling and Aquaculture
- Fish and Fish Habitat Protection.

The objectives of the *FRMA* are to:

- (a) conserve fish and to protect their environment;
- (b) ensure that the exploitation of fish resources is carried out in a sustainable manner;
- (c) enable the management of fishing, aquaculture and associated industries and aquatic eco-tourism;
- (d) to foster the development of commercial and recreational fishing and aquaculture;
- (e) to achieve the optimum economic, social and other benefits from the use of fish resources;
- (f) to enable the allocation of fish resources between users of those resources;
- (g) to provide for the control of foreign interests in fishing, aquaculture and associated industries;
- (h) to enable the management of fish habitat protection areas and the Abrolhos Islands reserve.

The *Pearling Act 1990* applies to pearl oysters of the species *Pinctada maxima*. The objects of that Act are to regulate pearling and pearl oyster hatchery activities and to provide for the conservation and management of pearl oyster fisheries.

The remaining three Acts are directed specifically at enabling fisheries adjustment schemes, industry promotion and training and providing for compensation in specific circumstances upon the creation of a marine reserve, although the latter two are rarely used.

In the course of assisting the Minister with the administration of the various Acts, the Department also undertakes fisheries research, management, surveillance, enforcement and education in the marine parks and reserves established under the *Conservation and Land Management Act 1994*. Some activities, such as surveillance and enforcement, are also undertaken by the agency on behalf of the Commonwealth in waters adjacent to Western Australia in Australia's Economic Exclusion Zone, in accordance with the provisions of the Commonwealth *Fisheries Management Act 1991*. This zone extends 200 nautical miles (370 kilometres) from the State's coastal borders.

Key Points

- *The fisheries and aquatic resources of Western Australia are significant and contribute directly to economic development and to our natural environment.*
- *Responsibility for the administration of the State's fisheries and pearling legislation lies with a Minister of the Crown supported by a Department of State.*
- *The State fulfils its statutory responsibility through the identification, provision and integration of research, management, compliance, education and administrative services towards the conservation and sustainable development of the State's fish resources.*
- *This is achieved through four outputs: commercial fisheries; recreational fisheries; pearling and aquaculture; and fish and fish habitat protection.*

3.2 Commonwealth/State Arrangements

In 1995, the State entered into a series of arrangements with the Commonwealth, known as the Offshore Constitutional Settlement (OCS), with respect to fisheries jurisdiction. This followed an earlier set of arrangements in 1987.

The OCS is a legal arrangement between the Commonwealth and State Governments which defines control of the fisheries which operate off the State of Western Australia. The OCS simplifies legal arrangements for the management of fisheries operating in both State and Commonwealth waters.

Since Federation in 1901, State parliaments have had the power to make fishery laws that apply within three nautical miles of the shore (coastal waters). In 1955, the *Commonwealth Fisheries Act (1952)* came into force to regulate fishing by Australian boats in waters proclaimed under the Act outside coastal waters (proclaimed waters). Commonwealth proclaimed waters originally extended from the three nautical mile limit of coastal waters to 200 nautical miles seaward of the baseline from which the Australian territorial sea is measured. Australia controls foreign fishing as well as local fishing in this area.

Before OCS, fisheries operating in both State and Commonwealth waters were often managed by the one authority, although two sets of legislation applied. Fishermen, even within the same fishery, needed two sets of licences.

In 1983, amendments to State and Commonwealth Fisheries Acts allowed the Commonwealth and State to enter into formal arrangements for fisheries operating both sides of the three nautical mile line. Thereafter fisheries defined in an arrangement were then managed under a single law, instead of two laws. The applicable law may be State or Commonwealth. In addition, the amendments established Fisheries Joint Authorities, comprising the Commonwealth and State Ministers responsible for fisheries.

The OCS of 1995 came into effect on February 3, 1995, and specifies five arrangements under which fisheries inside the 200 nautical mile limit of the Australian Fishing Zone (AFZ) come under either State, Commonwealth or joint control. In general, the 1995 OCS states that the State will control all fish out to 200 nautical miles, except for:

- Northern Prawn Fishery – controlled by the Commonwealth.
- Tuna and tuna-like fisheries – controlled by the Commonwealth.
- Deep water trawling in waters outside the 200 metre isobath – controlled by the Commonwealth.
- Shark fishing east of Koolan Island – controlled jointly by the State and Commonwealth under State law.
- Demersal longlining and demersal gillnetting south of 33 degrees South - controlled jointly by the State and Commonwealth under State law.

While the OCS has simplified fisheries management arrangements, there are a number of cross-jurisdictional issues subject to ongoing consideration and discussion between the State and the Commonwealth including the management of highly migratory species, by-catch and the interaction of Commonwealth fisheries with recreational fisheries.

The Department also participates either directly or indirectly in a number of State/Commonwealth fisheries forums, including the Australian Fisheries Management Forum and associated sub-committees/working groups, and the Natural Resource Management Standing Committee and Primary Industries Standing Committee.

These forums provide an opportunity for the Department to engage on matters of national importance in relation to fisheries and aquaculture including, for example, complementary management arrangements for migratory species and matters of broader fisheries and aquaculture management including coastal and marine planning and indigenous reconciliation.

Key Points

- *The State has entered into arrangements with the Commonwealth with respect to fisheries jurisdiction.*
- *The State controls almost all fisheries in Western Australia out to 200 nautical miles.*
- *The Department participates in a number of national Government forums which provide an opportunity to engage in matters of national significance and of broader significance to fisheries and aquaculture management.*

3.3 Fisheries Management Inputs

3.3.1 Research and Monitoring

The Department's Fisheries Research Division provides the expert scientific advice and research information necessary to manage, monitor and develop the State's extensive fish resources.

Research on wild fish stocks is undertaken by scientists working in collaboration with commercial fishers who provide statutory monthly catch and effort records. A large number of skippers also voluntarily complete detailed research logbooks. Similarly, many recreational fishers provide voluntary catch records to the Division, which are supplemented by extensive surveys of recreational catches. These data, together with fishery-independent research surveys, enable the Division to maintain the comprehensive research databases needed for management of the State's harvested fish stocks.

Research on aquaculture development and associated environmental management issues is undertaken in collaboration with industry and community groups.

The outputs provided by the Division include:

- Scientific knowledge for the sustainable management of the State's wild fish stocks and associated commercial and recreational fisheries.
- Maintenance of long-term databases to support scientific assessments of fish stock and their habitats.
- Strategic research knowledge on aquatic species and their environments for managing aquatic environments and ensuring quality of the State's fish products.
- Development of new techniques and basic knowledge to add to the community's understanding of aquatic resources and their environment.

Research information and data is essential for the effective implementation of ecologically sustainable development across the State's fisheries and aquaculture sector.

3.3.2 Policy and Planning

The Department is involved in the development and implementation of "high level" strategic policy related to fisheries management and natural resource management generally. This is distinct from operational policy related to individual fisheries and sectors.

Examples of policy and planning at this level include:

- Commonwealth/State relations (e.g. Offshore Constitutional Settlement negotiations).
- International relations in liaison with the Commonwealth (including fisheries management issues and trade and market issues).
- Representation in whole-of-Government forums.
- Involvement in high level or cross-Government policy initiatives (eg indigenous reconciliation).

3.3.3 Operational Policy and Management

The Department has operated a dedicated fisheries management unit since the mid 1980s. Currently the Department's structure of the unit mirrors its four output areas with programs established in the areas of Commercial Fisheries, Recreational Fisheries, Pearling and Aquaculture and Fish and Fish Habitat Protection. Management activities are based substantially on research and compliance input together with industry and community consultation within the broad policy prescriptions set by Government. Operational management activities include:

- Development, implementation and review of fisheries and aquaculture management plans and arrangements.
- Priority setting for research and development.
- Priority setting for compliance.
- Development and administration of education and volunteer programs.
- Development and review of Ministerial Policy Guidelines on relevant matters to assist decision-making under the legislation.

To assist in its management function, the Department operates a variety of consultation processes with stakeholder groups and the wider community including formal meetings with relevant sectors, the publication of community discussion papers and public forums. In addition, the Department engages with formal Ministerial and Management Advisory Committees that have been established for specific fisheries or sector groups.

3.3.4 Compliance and Education

The major driver for the management of fisheries resources is human behaviour. While the objectives of fisheries management are directed towards sustaining fish stocks, what is actually managed is the behaviour of individuals undertaking fishing activities. Compliance by fishers with fisheries laws is essential to the integrity of the systems that manage fisheries and therefore critical to achieving sustainability. Compliance programs underpin the success of fisheries management schemes because non-compliance affects the attainment of biological, economic and social objectives.

The success of any fisheries management system depends on attaining optimal levels of compliance with fisheries laws. This is best achieved by maximising voluntary compliance, by creating an effective deterrent against illegal fishing and by education programs.

Elements critical to achieving optimal levels of compliance include:

- Maintaining productive working relationships with stakeholders.
- Collaborating with fisheries stakeholders to develop and implement fisheries policies and laws.
- Ensuring that fisheries laws are administered and enforced fairly, reasonably and cost effectively.
- Working with fisheries stakeholders to identify compliance risks and developing compliance strategies, systems and services to lessen those risks.
- Supporting the co-management of fisheries with stakeholders who can be held accountable for meeting their duties and obligations.
- Delivering criminal enforcement services.
- Maintaining the integrity of its people, processes, systems and decision-making.

The Department operates a state-wide compliance program that aims to maximise compliance with fisheries laws. A large proportion of costs incurred through enforcement of commercial fisheries and pearling are cost-recovered from industry. The majority of recreational enforcement costs are borne by the State.

The Department also places strong emphasis on education as a component of its overall compliance program and to meet its objective of maximising voluntary compliance with fisheries laws. The Department's key message of '*Fish for the Future*' is communicated to the community through, for example, strategic campaigns, and a large amount of printed material targeted at specific groups. The Department's education program is also strongly supported by a large number of Volunteer Fisheries Liaison Officers.

3.3.5 Licensing

The legislation provides for the grant of licences and leases for specific activities. Licensing is a key fisheries management tool used in commercial and recreational fisheries and aquaculture. The Department operates a licensing unit from its Head Office which is supported by licensing services in key regions. In addition, Australia Post provides a licensing service for recreational fishing.

One of the key innovations of the *FRMA* was the creation of a public statutory register of commercial licences, permits and exemptions, including details of security interests and convictions that are required, in respect of relevant licences, to be recorded under the Act. Details of recreational licences are part of the register, providing statutory privacy safeguards (these are not available for public search). Marine aquaculture licences are also now recorded on the register. In due course, it is anticipated that authorisations issued under the pearling legislation will also be included.

A significant feature of the register is the facility for a security interest in a licence or permit to be noted on the register. This facility allows lenders who have advanced monies on the security of a licence to have their security interest noted on the register, providing additional statutory safeguards.

3.3.6 Integration of Inputs

In relation to Government institutional arrangements, an issue to be considered is the extent to which the functional activities of policy, research, compliance and community education need to be integrated.

Key Point

- *Inputs to the fisheries management process include policy, research, compliance and education.*

3.4 Ministerial and Management Advisory Committees

Current Government policy regarding fisheries recognises that Western Australia's fisheries are a common property resource that generate substantial wealth for the State as well as supporting the very significant service industries that are associated with both the commercial and recreational fishing sectors.

Management of this valuable resource is currently based on the premise that Government is the ultimate custodian of essentially a community based natural resource and through 'co-management' or 'participatory decision making' resource users need to become directly and formally involved in management decision-making processes.

The main thrust of the current Government's commitment to improving arrangements for the management of our State's fisheries is to enhance the links between Government and relevant stakeholders and to underscore a representative and consultative approach, with the necessary research to ensure the management and conservation decisions are based upon the best available information.

In this context, the Government has strongly supported the spirit and intent of current fisheries legislation and holds that the quality of consultation at all appropriate levels is the essence of sound and accountable fisheries management.

The Government has therefore made a solid commitment to continuing to consult with fisheries stakeholders and ensuring effective participatory decision-making processes are maintained. The Government has, however, specifically recognised the importance of the MACs as a source of advice to the Minister for Fisheries and an effective consultative mechanism for fisheries management. It has also recognised that sustainable use of fish resources is greatly benefited by ensuring stakeholders have a strong sense of stewardship and involvement in the management of fisheries.

The Department currently supports 30 committees established under fisheries and pearling legislation. The constitutional, functional and financial arrangements for these committees are summarised in a 'MAC Guide'² which is being utilised pending a review by the current Minister.

Four MACs are established under Sections 29, 33 and 37 of the *FRMA* and Section 38 of the *Pearling Act 1990* for the rock lobster fishery, the recreational fishery, aquaculture and pearling respectively. Other MACs are established under Section 41 of the *FRMA* to provide advice on other commercial fisheries and regional recreational fisheries and one MAC is established under Section 41 of the *FRMA* to provide advice on the management of the Abrolhos Islands.

A few committees and working groups other than MACs are established to provide advice on other specific issues relating to fisheries management. These include, for example, the Voluntary Fisheries Adjustment Scheme Committees of Management.

MACs are a key consultative mechanism for the Department and a major source of advice to the Minister on issues relating to a fishery or Fishery Portfolio area. The Minister has other avenues of advice available to him including the Executive Director of Fisheries, other Ministers, Cabinet, Parliament and industry and stakeholder groups. The MAC is a forum where issues relating to a particular fishery or a fisheries portfolio area are discussed, problems identified and possible solutions developed for consideration by the Minister.

In this regard, MACs assist the Minister and the Department in achieving fisheries management objectives. MACs also provide a formal mechanism for collective stakeholder input to fisheries management decision-making processes and provide a means through which the Minister can make his policies known to stakeholder groups.

² Monty House MLA Minister for Fisheries. Fisheries Management Guide No. 2: A Guide for Management and Ministerial Advisory Committees (as amended August 2000).

A recent review of Boards and Committees within the Fisheries Portfolio³, endorsed by Cabinet, identified the following issues as needing further consideration when developing any new MAC arrangements, particularly as a result of outcomes of the Integrated Fisheries Management initiative⁴:

- there is currently no forum for discussion of cross sectoral fisheries issues with key stakeholders;
- the interest of the general community (those other than vested fishing interests) such as conservation interests are often poorly represented on fisheries MACs;
- there is currently limited scope for discussion of overall strategic commercial fisheries issues;
- consultative arrangements for many commercial finfish fisheries is inadequate; and
- the number of regional recreational fisheries MACs is cumbersome and not always appropriately focused.

These issues will need to be further considered over time.

Key Points

- *MACs are a key consultative mechanism for the Minister and the Department.*
- *Boards and Committees within the Fisheries portfolio have recently been reviewed and the importance of MACs recognised.*
- *A number of structural changes to MACs may be required as a result of current initiatives in the area of integrated fisheries management.*

3.5 Stakeholders

The Department's listed stakeholders include:

- The community of Western Australia.
- Management Advisory Committees.
- Commercial fishers.
- Pearlery.
- Aquaculturalists.
- Western Australian Fishing Industry Council.
- Recfishwest.
- Conservation Council of Western Australia.
- Fish processors and others involved in the commercial utilisation of Western Australia's aquatic resources.
- Recreational Fishers.
- Aboriginal people.
- Fisheries volunteers.
- Environmental groups, passive users and eco-tour operators.
- Departmental staff.
- Other state, national and international government agencies and tertiary institutions.

³ Unpublished.

⁴ Refer section 6.2 for a description of Integrated Fisheries Management.

This is not an exclusive list and there are a large number of other sectoral groups that the Department liaises with on a regular basis including, for example, the Western Rock Lobster Council, Pearl Producers Association and the Aquaculture Council of Western Australia.

It can be seen that stakeholder groups are diverse and include those who do not fish.

Involvement of stakeholders is encouraged in fisheries management in order to strike a balance between the often competing needs of commercial and recreational fishers and other interest groups and the need to ensure that fish stocks and their habitats are protected, now and for the future of all Western Australians.

Key Points

- *Stakeholder groups are diverse and include those who do not fish.*
- *Stakeholder involvement is essential to meet the State's fisheries management objectives.*

3.6 Funding Arrangements

Currently, the Department has approximately 378 staff with an annual budget estimate for 2002/03 of \$47.2 million. Approximately \$21 million will be provided through (Government) consolidated funds and the remainder (\$26 million) through cost recovery, licensing revenue and external funding. In summary, approximately 55 per cent of the Department's operating costs are directly funded through cost recovery arrangements with commercial fisheries, the pearling industry, through various user fees and charges and through research grants and a contractual arrangement with the Commonwealth.

Following a review of the Fisheries Portfolio in 1994, new funding and cost recovery arrangements were implemented during July 1995 to provide the Department and sector interests with an adequate and appropriate funding base to support activities in an expanding and increasingly complex fisheries sector. These arrangements, in general, exist today.

Commercial fisheries fall into two groups: Managed fisheries (those with a management plan under the *FRMA* that operate under a managed fishery licence or interim managed fishery permit), and Regulated fisheries (those that operate under other subsidiary legislation under the authority of a Fishing Boat Licence [FBL]).

Within the managed fisheries group, six operate under full cost recovery arrangements. Others pay a fee of 2.825 per cent of the gross product value (GPV) for the grant or renewal of authorisations (Managed Fishery Licences) as partial cost recovery. The second group include both "managed" and "regulated" fisheries. For these fisheries and for other "regulated" fisheries the gap is covered by Government consolidated fund contributions.

Fisheries which have no formal management plan, and operate under regulations have not contributed to the cost of management. However, a recent decision by the Minister to impose a fee for grant for commercial Fishing Boat Licences has resulted in these fisheries contributing something toward their cost of management. In the longer term, managed fishery fees are likely to supersede the fishing boat licence fee.

Recreational fishing, aquaculture and fish habitat protection are largely funded through consolidated funds, although the recreational fishing, aquaculture and fishing tour sectors are subject to a user contribution through licence and administrative fees.

The commercial fishing sector also contributes to the Development and Better Interests (DBI) fund, which is an account within the Fisheries Research and Development Fund established under S.238 of the *FRMA*. The establishment of the fund was a component in the introduction of cost recovery arrangements for managed commercial fisheries. Business rules that direct the operation of the fund are derived from an industry/government agreement (the so called “Cole/House” agreement⁵) made in 1995 in relation to cost recovery business rules (as amended from time to time).

The fund levy represents a return to Government, as a representative of the community, for use by the Minister, on those items which are in the best interests of fisheries and fish habitat management. The fund is credited with revenue based on a fee levied against the gross product value from managed commercial fisheries. The fee formula is based on an agreed minimum balance in the fund of \$3.5m or 0.65 per cent of GVP of managed fisheries (fisheries with a formal management plan created under the *FRMA*), whichever is the greater.

While the revenue can, in principle, be used for the variety of purposes stated in Section 238 of the *FRMA*, in practice the commercial fishing industry have successfully put the position that the fund should only be applied to things of immediate benefit to the industry. A significant proportion of the fund is directed towards industry representative bodies and projects associated with industry development.

Funding issues and gaps are outlined in section 9.6.

Key Points

- *The full costs of management for the six most valuable commercial fisheries are recovered from industry. A majority of the remaining commercial fisheries are subject to partial cost recovery.*
- *The commercial sector contributes to the development and better interest fund which represents a return to the community.*
- *Aquaculture and recreational fishing are largely funded through consolidated funds.*

⁵ Hon Monty House MLA Minister for Fisheries & J Cole Chairman Western Australian Fishing Industry Council. Future Directions for Fisheries Management in Western Australia: Presented to the 1995 Annual General Meeting of the Western Australian Fishing Industry Council. 22 September 1995.

3.7 Reporting and Performance

The Department is required to produce an annual report for the purposes of the *Financial Administration and Audit Act 1985*. Section 263 of the *FRMA* requires the annual report to include a report on the state of fisheries managed under the *FRMA*. Accordingly the Department produces *State of the Fisheries*. The *Annual Report* and *State of the Fisheries* are submitted to Parliament each year.

The *Annual Report* reports on activities for the previous year, significant trends and Performance Indicators. The Department currently reports formally against seven performance indicators:

- The proportion of fish stocks identified as being at risk or vulnerable through exploitation.
- The proportion of commercial fisheries where predicted catches are achieved.
- The movement of real goodwill values of licences over time.
- The contribution to the State's gross value of output.
- The participation rate in recreational fisheries.
- The satisfaction rate of those engaged in recreational fishing.
- The satisfaction of the broader community as to their perceptions of the extent to which the Department is achieving sustainable fisheries management objectives.

A full description of these is provided in the Department's 2001/02 Annual Report.

State of the Fisheries reports in detail on the activities and impacts of the commercial and recreational fishing sectors in Western Australia. The status of the developing aquaculture industry is recorded to enable the public of Western Australia to follow the development of this emerging sector. The work of the Fish and Fish Habitat Protection Program, which provides environmental coordination for the Department's fisheries management activities and habitat reserves, is also reported to complete the coverage of the Department's responsibilities. The *State of the Fisheries* document, which is structured to reflect the nationally developed ESD reporting framework, summarises management changes, compliance activities and research data including stock assessments and breeding stock levels, and provides a valuable reference point for Western Australian fisheries. The *Annual Report* and *State of the Fisheries* are subject to scrutiny by the Auditor General.

The Department also submits separate 'sustainability reports' on particular fisheries to Environment Australia for export approval under the *Environment Protection Biodiversity and Conservation Act 1999 (EPBCA)* [refer section 6.1]. Reports are currently being prepared for all commercial export fisheries. Work has also commenced on the development of a framework for reporting on aquaculture.

In addition to statutory reporting, the Department routinely reports to MACs on a project basis and/or fishery basis. Reporting includes milestone reporting against specific projects, financial reporting and annual stock assessment reporting for commercial fisheries.

Key Points

- *The Department's activities and performance is subject to scrutiny by the Auditor General and by Parliament.*
- *Environmental performance with respect to major export fisheries is subject to separate assessment under Commonwealth legislation.*
- *Routine reporting occurs at fishery and project level to key stakeholders.*

4. DEPARTMENTAL OPERATING AND ORGANISATIONAL STRUCTURE

The Department's operating structure consists of an Executive Directorate and two Divisions - Fisheries Management Services and Fisheries Research. Strategic Planning and Policy, Finance and Administration, Corporate and Community Relations and the Legal Services Branches provide direct support to the Executive Directorate. This is shown diagrammatically at Appendix C.

The Department operates from a Head Office in Perth and in other metropolitan and regional areas. Specifically, the Fisheries Research Division operates from the Western Australian Marine Research Laboratories at Waterman and at Pemberton. The Regional Services Branch of the Fisheries Management Services Division has regional offices at Broome, Carnarvon, Geraldton, Fremantle and Albany with a further 12 district offices throughout the state.

The Department must address many complex issues impacting on the sustainable management of the State's fish resources. To deal with these issues effectively, the Department maintains operating processes designed to facilitate planning and promote the coordinated and efficient service delivery across all divisions to the Department's four output areas – commercial fisheries, recreational fisheries, pearling and aquaculture and fish and fish habitat protection. Through these processes – which involve participation in a number of multi-disciplinary committees – staff are better able to contribute to the Department's decision-making. These Committees also serve to improve communication between operating areas of the Department and promote department-wide collaboration toward achieving the Department's strategic objectives and the Government's desired outcome for the Department which is the conservation and sustainable development of the State's fish resources.

The main internal committees are the Agency Executive Group, the Agency Development and Administration Committee, the Planning Coordination and Review Committee, Operational Sub-Committees and the Internal Audit Committee.

5. HISTORY OF FISHERIES MANAGEMENT IN WESTERN AUSTRALIA

Until the 1990s, the Department's focus was essentially upon the management of the State's extremely lucrative commercial fisheries – mostly the export oriented invertebrate fisheries – rock lobster, prawns, scallops, pearl oysters and abalone.

Upon agreement with industry, a program was initiated in the mid 1980s to bring most of the State's unit fisheries under limited entry management. There are currently in excess of 30 such so-called Managed fisheries, with a number of others under active consideration to move to formal management.

Hand in hand with this limited regime, a jointly funded Government/industry voluntary funding Fisheries Adjustment Scheme (FAS) was introduced. In the decade from 1987 this program removed about 10 per cent of the State's estuarine and inshore fishing fleet (about 150 licences) at a cost of about \$3.7 million.

This was superseded in 1997 by a (now) \$8.5 million targeted resource sharing initiative which includes several targeted Voluntary FAS. This has seen a 50 per cent reduction of the remaining estuarine fisheries, as well as other small fisheries with significant overlap with recreational fisheries. The monies from this have come from consolidated funds.

In parallel with commercial fishing developments, the Department undertook a state-wide consultative process within the recreational fishing community in 1990/91. This resulted in a significant re-focus of its activities towards recreational fishing. The management measures introduced as a result included bag limits and a greater focus on extension and education.

A state-wide Ministerial Recreational Fishing Advisory Committee (RFAC) was also established, supported by 12 Regional RFACs. These have proved useful, solving issues at the local level and providing advice to the central committee. This has formed the springboard to the next management phase – the introduction of regional recreational fishing plans – two of which have been drafted with two more to be completed within the next 2-3 years. These planning exercises have involved community based working groups and considerable community consultation and discussion.

The 1990s also saw the introduction of a specific strategy for the development of aquaculture including establishment of an Aquaculture Program within the Department, appointment of regional aquaculture development officers, creation of regional aquaculture parks and the establishment of a statutory MAC.

The Department also introduced a Fish and Fish Habitat Protection Program to focus its efforts in this important area. The Program has a range of diverse roles including contributions to the marine park planning process, planning and implementing Fish Habitat Protection Areas, dealing with translocation issues and marine pests and coordinating the Department's role in the management of fisheries under ESD principles. As with most programs without a defined client group, but in the public interest, this Program has suffered from limited resources and is increasingly moving to an audit and external client engagement role. It is thus ensuring that the main cost of meeting ESD elements are borne by the respective commercial, recreational and aquaculture user groups, either directly or indirectly.

In early 2000, the Department launched its integrated fisheries management initiative. This initiative was in recognition that the many disparate management initiatives described above, while focussing on particular users, did not provide an integrated framework – nor did it recognise the growing community expectation of management within an ecosystem framework. This is now paving the way for fisheries management into the future within the over-arching concept of ESD.

Key Points

- *Historically fisheries management in Western Australia was focussed on commercial fisheries management.*
- *During the 1990s, there was a stronger focus on recreational fisheries management and aquaculture development.*
- *More recently, the Department's activities have been strengthened in the area of fish habitat protection and environmental management.*

6. NEW DIRECTIONS FOR FISHERIES MANAGEMENT IN WESTERN AUSTRALIA

6.1 Ecologically Sustainable Development

ESD seeks to integrate short and long-term economic, social and environmental effects in all decision making. ESD is now accepted as the foundation for natural resource management in Australia and is a major component of all fisheries legislation at both State and Commonwealth levels. Additionally, ESD principles are consistent with a number of international treaties and initiatives, such as United Nations Convention on the Law of the Sea and the United Nations Code of Conduct for Responsible Fisheries.

The concept of sustainable development emerged during the 1970s and 1980s following concerns about the impacts that unrestrained economic growth and development were having on the environment. The term ecologically sustainable development (ESD) was adopted in Australia to emphasise the importance of the environment to long-term survival and to ensure that there was a balanced approach in dealing with environmental, social and economic issues.

The pressures to introduce ESD principles into fisheries management have come from both within and external to the fishing sector. Within the fishing sector, incorporation of ESD has been a long-term objective of all of Australia's State and Commonwealth Fishing Authorities. The Department has been progressing down the ESD path for the last seven years, since sustainability was embodied as an objective in the *FRMA*. This allowed the Department to take a more pro-active role in the sustainable management of marine, estuarine and riverine ecosystems and to establish a dedicated Fish and Fish Habitat Protection Program.

More recently, there has been external pressure placed on the fishing sector to hasten progress to address ESD. This pressure has stemmed from the new Commonwealth legislation, specifically the amendment to Schedule 4 of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* [now incorporated in the *Environment Protection and Biodiversity Conservation Act 2000 (EPBCA)*]. This resulted in the blanket exemption of marine species being removed, and now only species that are harvested in an ecologically sustainable manner are to be given an exemption for export.

Within Western Australia, the State Government has also established a Sustainability Policy Unit within the Department of the Premier and Cabinet to develop a State Sustainability Strategy. A draft strategy has been released for public comment⁶. This further highlights the move to ESD generally.

⁶ Government of Western Australia 2002, Focus on the future: The Western Australian State Sustainability Strategy, Consultation Draft, Department of the Premier and Cabinet, Perth.

The Department has published a policy paper⁷ that outlines the first step towards fully implementing ESD principles in the management of the fisheries resources of Western Australia. This policy covers the origins of the concepts of ESD both nationally and internationally and how they can be implemented within the fisheries context in general, and specifically within Western Australia.

Due to the recent changes in Commonwealth legislation (mentioned above), the current version of the paper focuses on the environmental components of ESD needed to complete assessments to retain export approval under the *EPBCA* for Western Australia's major commercial fisheries. Future versions of the paper will expand upon the social and economic components of ESD, especially how they relate to resource allocation issues. Ultimately, the ESD framework will be expanded for use within a regional marine planning context.

The Department is in the process of developing separate ESD reports to ensure that particular marine fishery species are harvested in a sustainable manner and therefore remain on the export list. These reports include assessments of the environmental and governance components of ESD for all commercial fisheries. In addition, the Department has begun the assessments of the economic and social aspects of the State's major fisheries. After the ESD assessments are done for the commercial fisheries, the Department will begin the assessment of recreational fisheries and aquaculture industries.

Success in the implementation of ESD principles and practices across all sectors of the State's fisheries will be a 'world-first' for the Department and the fishers and fishing industry of Western Australia.

6.2 Integrated Fisheries Management

Historically, fisheries management in Western Australia has been based on meeting the management requirements of each sector or user group, without necessarily taking into account the overall impact of these user groups on fish stocks or their environment. A sectoral-based approach to management has been used successfully in Western Australia to date and most stocks are still in good condition by world standards.

However, the majority of fish stocks are now fully exploited and under increasing pressure from a growing population, coastal development and the demands of competing user groups. Similar scenarios elsewhere in the world have seen many fisheries go into decline, or fail completely. Fortunately, Western Australia still has time to develop a system that will ensure the long-term sustainability of fish stocks and satisfy the requirements of a wider ESD approach.

⁷ Policy for the Implementation of Ecologically Sustainable Development for Fisheries and Aquaculture Within Western Australia. March 2002.

Voluntary Fisheries Adjustment Schemes have been used successfully in Western Australia to remove commercial fishing effort from a number of fisheries including those with significant overlap with recreational fisheries. In addition to fisheries adjustment scheme mechanisms, the Department has adopted mediation techniques to resolve resource sharing conflicts in identified fisheries. This approach uses an independent mediator to facilitate resource sharing outcomes acceptable to all parties.

However, to satisfy the requirements of a wider ESD approach and given changing community attitudes, there is a clear need to move from the implicit allocation of fish resources to user groups to an explicit allocation and re-allocation framework. To assist in this process, an independent review committee has received public input and developed an expertise-based report on an integrated management framework for fisheries. The review process has addressed issues around the processes and principles for moving to explicit allocation and re-allocation of fish resources between user groups. The final report was presented to Government during November 2002 and has been released for public comment until 28 February 2003.

The Government believes that integrated fisheries management is essential to meet the growing pressures on fish resources. The integrated fisheries management strategy will incorporate, over time, a regional approach to management based upon the distribution of fish stocks, the determination of sustainable catch levels and the allocation of shares to the various user groups. Explicit resource allocations under integrated management will require additional information and monitoring requirements and careful consideration will need to be given to funding mechanisms and opportunities.

The management of each sector within explicit allocations, or target catch levels, will require appropriate management frameworks and mechanisms to control catches. Consequently, the shift towards integrated management incorporates a whole package of initiatives, many of which are already underway. These include:

- A review of the 'wetline' fishery (ie. that sector which is currently not subject to a formal management plan).
- Introduction of regional recreational fishing plans for key regions.
- Finalisation of management arrangements for a range of fisheries including the estuarine and marine embayment fisheries.
- Consideration and implementation, as relevant, of the Aboriginal Fishing Strategy (refer 6.3 below).

The issues surrounding the long-term allocation of resources are complex and it will take several years to implement the new framework across the majority of fisheries.

The implications of, and issues arising from, integrated fisheries management with respect to a SMA model are discussed in section 9.4.

6.3 Indigenous Fisheries

The current fisheries management and legislative framework in Western Australia has evolved with little regard to Aboriginal interests. There is a growing need to recognise Aboriginal fishing and develop appropriate management arrangements in partnership with Aboriginal people that ensures sustainability of fish stocks for future generations. An understanding of the extent and nature of the indigenous use of fish resources is also required under integrated fisheries management.

In response to the above issues, an Aboriginal Fishing Strategy has been initiated by the Department with funding assistance from the Aboriginal and Torres Strait Islander Commission (ATSIC), the Fisheries Research and Development Corporation (FRDC) and the Department of Indigenous Affairs. The objectives of the Strategy are to make recommendations to Government for:

- (i) the inclusion of traditional and cultural fishing practices within a framework of planned sustainable use of fish and fish habitat; and
- (ii) greater involvement of Aboriginal people in the fisheries sector, including commercial fishing, aquaculture, the aquatic charter industry, and fisheries management

A Working Group has been established to develop the Strategy comprising an independent chairman and consisting of Aboriginal, fishing sector and Government representatives. The Working Group has finalised extensive consultation with Aboriginal communities and organisations throughout the State and has identified key issues and aspirations of Aboriginal people relating to the protection and management of fish.

The Working Group will be providing a draft report to the Minister in early 2003. It is anticipated the Minister will release the report for public discussion by the end of March 2003 for a three month public comment period. Government consideration and decisions are not expected until at least the end of 2003.

The broader legislative and policy issues to be addressed by the report include:

- recognition and management of customary/traditional fishing activities;
- inclusion of Aboriginal people in the protection and use of fish resources (including an Aboriginal Trainee Fisheries/Management Officer Program and development of appropriate consultative mechanisms); and
- addressing Aboriginal aspirations to enter the commercial fishing, aquaculture and fishing tourism sectors.

The Working Group has also had input into the Integrated Fisheries Management Strategy process to ensure Indigenous fishing interests are considered in any future allocation framework.

There are a number of other state and national initiatives in which the Department participates including, for example, implementation of, and reporting against, the Natural Resource Management and Primary Industries Action Plans for Indigenous Reconciliation.

Key Points

- *The Department of Fisheries is committed to implementing ESD which now forms the foundation for fisheries management in Australia.*
- *Fisheries management is changing within Western Australia with a shift to integrated fisheries management and more explicit allocations of fisheries resources. This will require improved data collection and monitoring.*
- *The indigenous sector is an emerging stakeholder and must be incorporated into management processes.*

7. FISHERIES MANAGEMENT MODELS AROUND AUSTRALIA

During 2001/02, the Victorian Government undertook an inquiry into fisheries management in that State⁸. The first volume of the report arising from the inquiry provides the most up-to-date summary of fisheries institutional models in Australia. The following general information is drawn, in part, from that report.

7.1 Queensland

Since July 2000, fisheries and aquaculture in Queensland's marine and inland waters have been managed by the Queensland Fisheries Service (QFS), a division of the Queensland Department of Primary Industries (QDPI). The previous Queensland Fisheries Management Authority (QFMA) and the QDPI Fisheries Group was disbanded and the QFS is the result of a merger of the functions previously delivered by both organisations.

The Queensland Boating and Fishing Patrol, responsible for fisheries compliance, has recently been brought into QFS. The research and development component of QDPI Fisheries has been transferred to the Agency for Food and Fibre Sciences (within the QDPI umbrella), forming a fisheries and aquaculture group with strong links to the QFS.

7.2 New South Wales

Fisheries in New South Wales are the responsibility of NSW Fisheries, a stand-alone Government Department. All fisheries and aquaculture management functions including policy development, compliance and research are integrated within the one Department. NSW Fisheries has three main operational arms: an Office of Conservation, an Aquaculture Division and a Fisheries Services Division. These are supported by a Policy and Corporate Services Division.

7.3 South Australia

Within South Australia, the Fisheries and Aquaculture Branch of the Department of Primary Industry and Resources is responsible for commercial and recreational fisheries management and aquaculture including compliance. Aquatic sciences research is the responsibility of the South Australian Research and Development Institute (SARDI).

⁸ Environment and Natural Resources Committee. Inquiry into Fisheries Management First Report: Co-management. December 2001. Management Second Report June 2002.

7.4 Tasmania

The Marine Resources Group of the Department of Primary Industries, Water and Environment is responsible for the management of sea fisheries and marine farming in Tasmania. Inland fisheries management is the responsibility of the Inland Fisheries Service which does not sit within the Department but reports to the same Minister. The Inland Fisheries Service is responsible for freshwater fisheries, aquaculture in fresh water and the protection of native freshwater fauna. Fisheries compliance is the responsibility of the Marine and Rescue Division of the Tasmanian Police Force. Fisheries research is undertaken through the Tasmanian Aquaculture and Fisheries Institute.

7.5 Victoria

Fisheries management in Victoria was subject to a major re-structure with the coming into operation of the *Fisheries Act 1995*. The management of Victorian fisheries and aquaculture, including research and compliance, is the responsibility of the Fisheries Division of the Department of Natural Resources and Environment.

7.6 Northern Territory

Fisheries and aquaculture management in the Northern Territory is the responsibility of the Primary Industry and Fisheries agency of the Department of Business, Industry and Resource Development. The Fisheries section is responsible for commercial and recreational fisheries management, aquaculture and research. Fisheries enforcement is undertaken by the Marine and Fisheries Enforcement Unit of the Northern Territory Police.

7.7 Commonwealth

Since 1992, day to day management of fisheries under the jurisdiction of the Commonwealth has been the responsibility of the Australian Fisheries Management Authority (AFMA) – the only fisheries statutory authority in Australia. Broader fisheries policy, international negotiations and strategic issues are administered by a smaller group within the Department of Agriculture, Fisheries and Forestry – Australia (AFFA). Research and most compliance activities are outsourced to a variety of agencies. AFMA principal responsibility relates to commercial fisheries. Commonwealth fisheries legislation does not extend specifically to recreational fisheries management or to aquaculture.

Key Points

- *A majority of State fisheries agencies are incorporated into other, larger Government Departments.*
- *Currently two States, NSW and WA, have stand-alone Departments.*
- *The Australian Fisheries Management Authority is the only fisheries statutory management authority in Australia.*
- *The QFMA was disbanded in July 2000 and the functions previously undertaken by QFMA and the fisheries policy group in QDPI have now been merged into the QFS.*
- *Two States have created Fisheries Authorities within the last two decades and subsequently disbanded them.*

8. CURRENT WESTERN AUSTRALIAN GOVERNMENT INITIATIVES

8.1 Machinery of Government Taskforce

In June 2001, the Western Australian Machinery of Government Taskforce⁹ reported to Government. The Taskforce made a number of recommendations relevant to the SMA Inquiry. These included:

Recommendation 8 – A statutory authority should be established only if its proposed functions cannot be performed by a department or it would be inappropriate for them to be performed by a department.

Recommendation 9 – The functions of each statutory authority in the Western Australian public sector should be reviewed before 1 July 2002 to assess the appropriateness and feasibility of incorporating those functions into departments of State.

Recommendation 30 – An integrated at-sea service delivery operation should be established within Fisheries WA to service its needs and those of the Department of Transport (other than marine safety activities on the Swan River).

The Taskforce recommendations were endorsed by Cabinet on 18 June 2001.

The Taskforce also concluded that the inquiry into a SMA should precede any moves to integrate Fisheries WA with another body.

Recommendations (8) and (9) are discussed in more detail in section 10.3 of this paper. Recommendation 30 is discussed in section 9.3.

8.2 Review of the Effective Delivery of Government Priorities

In May 2002, the Government appointed a high level Functional Review Taskforce to undertake a “Review of the Effective Delivery of Government Priorities”. The Taskforce was appointed with powers of enquiry under section 10 of the *Public Sector Management Act 1994*.

Terms of reference for the review were:

1. To examine in detail each agency’s programs, functions, activities and services to determine efficiency and effectiveness of each component.
2. To assess each program’s consistency with and relevance to the Government’s objectives and policy priorities.
3. To identify more effective alternative methods of program delivery where applicable.

⁹ Ministry of the Premier and Cabinet. Government Structures for Better Results: The Report of the Taskforce Established to Review the Machinery of Western Australia’s Government. The Machinery of Government Taskforce. June 2001.

4. To identify possible cost savings at the program level.
5. To ensure the adequacy of the current asset management practices to ensure maximum utilisation of Government assets.
6. To identify areas of expenditure including procurement reform, where a whole-of-Government approach would produce a more cost effective outcome.
7. To report findings to the Expenditure Review Committee on a monthly basis with a final report to be provided by 31 December 2002.

A key focus of the review was to identify savings of at least \$50 million in recurrent expenditure a year, as well as to identify low priority programs and services.

In the Fisheries context, in addition to the four program areas, the corporate services areas was also examined including finance, procurement, information management and administrative services.

Key issues from a Departmental perspective were the risks associated with reduced consolidated funding, in particular in the areas of minor commercial fisheries, aquaculture, recreational fisheries, and fish and habitat protection, and the potential for a consolidation of corporate services provision into a centralised service delivery model.

As part of the review process, the Department also presented for further consideration the issues associated with the Machinery of Government Taskforce recommendation 30 – and the efficiencies to be gained in consolidating at-sea service delivery for fisheries and marine safety.

The Review Committee reported to Cabinet in December 2002. Consideration of any recommendations relevant to Fisheries will be ongoing.

Key Points

- *In 2001, the Machinery of Government Taskforce made a number of recommendations of relevance to a statutory authority model for the State's fisheries.*
- *Relevant outcomes from the current Review of the Effective Delivery of Government Priorities will need to be taken into account in the Inquiry process.*

9. ISSUES FOR FUTURE INSTITUTIONAL AND ADMINISTRATIVE ARRANGEMENTS FOR WESTERN AUSTRALIAN FISHERIES

9.1 Government Roles and Responsibilities

The wild fisheries resource is a common property resource – not owned by any single person or organisation. Historically, fisheries were ‘open access’ in which anybody could catch fish with little or no control. In the absence of intervention, the number of participants in the fishery continues to grow as the benefits to be derived from fishing increase leading ultimately to declining stocks and unprofitable enterprises. In essence, unfettered competition by fishers can lead to overfishing, overcapitalisation and, ultimately, lower environmental, economic and social returns from the fishery that may otherwise be obtainable. It is for this fundamental reason, coupled with the common property nature of the resource, that Government, on behalf of the community, controls access to the fisheries resource.

Historically, Government has focussed on biological objectives with a view to protecting or conserving wild fisheries resources. In more recent times, management objectives have included the need to balance the competing demands of varied user groups and sharing (or allocating) resources among sectors. The need to meet a broader ecologically sustainable development approach is also at the forefront of fisheries management today.

In essence, Government is the custodian of the fisheries resource on behalf of the community.

Key Points

- *The fish resources of the State are common property – not owned by any single person or organisation.*
- *Government intervention in fisheries management is essential to minimise risk of overfishing and over capitalisation.*
- *Government is the custodian of the fisheries resource on behalf of the community.*

9.2 Cross-agency/ Whole-of-Government Issues

The fisheries sector is increasingly complex and its growing relationship and interaction with other government issues and developments is significant. To illustrate this point, the following examples are provided:

Native title and indigenous reconciliation - significant linkages with Commonwealth legislation and initiatives with direct impact on fisheries and aquaculture development.

Marine and coastal planning – whole-of-Government issues and gaps in the area of marine and coastal planning and direct relationships with other Government Departments. There is also growing interest in marine planning from the Commonwealth sphere in response to National Oceans Policy.

“Property rights” – The rights issue is now extending right across Government, including in the areas of fishing rights, water rights and pollution.

Food safety – National and State food legislation (including seafood) will be introduced during 2003 and will have implications for both the fisheries and aquaculture sectors and may place specific obligations on the Department as a licensing authority.

Biodiversity – New biodiversity legislation is currently being drafted which will be capable of protecting all of Western Australia’s biodiversity and will have linkages with the State’s fisheries legislation.

Given the growing complexity of these issues, there is a need to ensure that appropriate structures exist to enable engagement in whole-of-Government or cross-agency issues.

Key Point

- *The fisheries sector is complex, and interacts and has significant linkages with a number of cross-Agency or whole-of-Government issues.*

9.3 Cross-Servicing Issues

As outlined in section 8.1, the Machinery of Government Taskforce report considered issues associated with the efficient delivery of Government at-sea services and recommended that an integrated at-sea service delivery operation should be established within the Department to service its needs and those of the Department of Transport.

This recommendation has not been implemented to date but is under consideration in the current Review of the Effective Delivery of Government Priorities.

Irrespective of the institutional arrangements for fisheries management in Western Australia, it is important that structures and processes are in place to enable the delivery of such cross-agency services on a quality, transparent basis with appropriate performance, audit and accountability measures. Subject to Government policy, there may also be instances where the Department may “buy” a particular service/s.

Key Point

- *There is potential for the Department to deliver cross-agency services such as at-sea safety and, subject to Government policy, to “buy” particular services.*

9.4 Integrated Fisheries Management

As outlined in section 6.2, the Department is moving down the path of integrated fisheries management. A report from the Integrated Fisheries Management Review Committee has been released for public comment.¹⁰

The general thrust of key recommendations arising from the report are:

- That an integrated management system for the sustainable management of Western Australia's fisheries should be introduced.
- That the integrated management system must be open and transparent, accessible and inclusive, flexible, effective and efficient.
- That an Integrated Fisheries Allocation Council be established by statute and be responsible for investigating resource allocation issues and making recommendations on optimal resource use to the Minister.
- That for integrated management to proceed, the Government must ensure that sufficient additional funding is made available to provide the necessary research, management and compliance for the sustainable management of fisheries and to ensure the effective operation of an integrated system.
- That the required funding package should take a multi-tiered and multi-user approach and be equitable across user groups and include:
 - (i) increased contributions from commercial users, including an increase in the level of contribution to the Development and Better Interest Fund;
 - (ii) increased contributions from recreational users, including the introduction of a general recreational fishing licence; and
 - (iii) additional State Government contribution from the Consolidated Fund to ensure required funding levels are met, in acknowledgement of the significant social and economic values associated with sustainable fisheries.

It was also recommended that a separate review be established to determine the basis for the introduction of a general recreational fishing licensing system including an analysis of social equity considerations (such as applicability, cost, concessions and exemptions).

The report also recommends nine principles as the basis for integrated management decisions and, where appropriate, to be incorporated into fisheries legislation. These are:

- (i) Fish resources are a common property resource managed by the Government for the benefit of present and future generations.
- (ii) Sustainability is paramount and ecological requirements must be accounted for prior to any allocation to user groups.

¹⁰ Report to the Minister for Agriculture, Forestry and Fisheries by the Integrated Fisheries Management Review Committee. Fisheries Management Paper No 165. Department of Fisheries. November 2002.

- (iii) Decisions must be made on best available information and where this information is uncertain, unreliable, inadequate or not available, a precautionary approach adopted to minimise risk to fish stocks. The absence of, or any uncertainty in, information should not be used as a reason for delaying or failing to make a decision.
- (iv) A sustainable target catch level must be set for all fisheries and explicit allocations designated to each user group.
- (v) Allocations to user groups should account for the total mortality on fish resources resulting from the activities of each group, including bycatch and mortality of released fish.
- (vi) The total catch across all user groups should not exceed the sustainable target catch level. If this occurs, immediate steps should be taken to reduce the take within prescribed levels. Management arrangements for each user group should aim to contain their catch within the level set for that group.
- (vii) Allocation decisions should aim to maximise the overall benefit to the Western Australian community from the use of fish stocks and take account of economic, social, cultural and environmental factors.
- (viii) Allocations to user groups should generally be made on a proportional basis to account for natural variations in fish populations. This general principle should not however preclude alternative arrangements in a fishery where priority access for a particular user group(s) may be determined.
- (ix) Allocations are notional – they are not “owned” by a group – however, management arrangements must provide users with the opportunity to access their allocation.

In releasing the report for public comment, the Minister indicated his support for the general thrust of the Committee report and also indicated his initial response to each of the Committee’s recommendations.

While the final directions by Government with respect to integrated fisheries management will set the pathway for fisheries management in Western Australia for the next decade or so, the timing of any specific changes or new structures/processes is not known. The impact of integrated fisheries management is therefore time-dependent. In any event, appropriate institutional arrangements will need to be in place to enable delivery of integrated fisheries management outcomes including processes and mechanisms to deal with the complex resource sharing issues which will impinge across the community.

Key Points

- *A report on Integrated Fisheries Management has been released for public comment.*
- *The report recommends, among other things, a move to integrated management within the over-arching principle of sustainability and the establishment of an Allocation Council to make recommendations on fisheries allocation issues.*
- *The final directions by Government with respect to integrated fisheries management will set the pathway for fisheries management in Western Australia for the next decade or so, although the actual timing of any changes is not known.*

9.5 Involvement of Stakeholders

Government, in its stewardship role, must engage with stakeholders and encourage community involvement in fisheries management. This occurs at a number of levels including the general community, peak stakeholder groups, sectoral interests and MACs.

The key point for Government to manage is the interface between consultation/dialogue and explicit or implicit agreement. Given the diverse nature and competing interests of stakeholders it is not likely that agreement or even consensus can be reached on issues – there will always be perceived winners and losers. Ultimately, stakeholders must be assured that their views were sought and considered fully. Government then has the responsibility to make decisions. This model is essential in natural resource management - whether through a Department or a statutory authority.

9.6 Funding and Revenue Options

9.6.1 Funding Issues

Irrespective of the current funding arrangements outlined in section 3.6, there is likely to be a long-term funding gap for the management of the recreational and commercial components of the State's fisheries, particularly marine inshore and estuarine finfish fisheries. These fisheries generally have a relatively low commercial catch, but a very high ecological, social and regional economic value, and often form the cornerstone of regional and local economies through their links to recreational fishing and regional tourism.

The demand for management, and hence costs, for these fisheries are being driven higher as growth in Western Australia's population, technological change and coastal development places these fisheries under unprecedented pressure.

The main funding gaps are in the areas of research and monitoring of these stocks and together with compliance and community education. The resource shortfall for the management of Western Australia's finfish stocks is conservatively in the order of \$4m-\$6m per year. The cost to Government and the community of this resource shortfall is a high risk of fisheries moving to an unsustainable basis and a necessity to close fisheries or take other measures to either protect stocks from collapse or rebuild fisheries to a sustainable level.

There are also funding issues around ongoing development of the aquaculture sector and fish and fish habitat protection including the creation and management of fish habitat protection areas and marine reserves.

These funding issues will exist under either a Departmental or statutory model. The establishment of an SMA will generate funding requirements in relation to the establishment of the Board and associated support structures and processes. The funding principles and options under a SMA model need careful consideration, particularly in light of the growing fisheries management pressures outlined above and a tightening of Government financial support.

9.6.2 Funding Options

The main options for further contributions to the costs of management revolve around further cost recovery, an increase in the Development and Better Interest Fund, a shift in the business paradigm to a royalty ("resource rent") arrangement, additional licensing in the area of recreational fishing and increased Government contributions.

9.6.2.1 Cost Recovery

Currently cost recovery applies only to six commercial fisheries. In reality, the capacity for additional commercial fisheries to support "cost recovery" is limited by their capacity to pay. Previous analysis indicates that most of the smaller fisheries could not support a full cost recovery approach. In this scenario as commercial fisheries closed the cost of management would simply transfer to the recreational sector, and is likely to increase rather than reduce. The capacity for the aquaculture sector to pay is also limited by its status as a small developing industry.

9.6.2.2 DBI Fund

There may be scope to consider reviewing the level of DBI contribution by commercial fishers.

9.6.2.3 Fisheries Royalties

The issue of royalties (including resource rents) has been discussed in the context of fisheries for many years and is given attention in a number of documents including the Victorian Inquiry into Fisheries Management, the report of the Integrated Fisheries Management Review Committee, and a discussion paper published by the Australian Bureau of Agriculture and Research Economics¹¹. A royalty or rent is essentially a return to the public for their loss of access to common property resources.

As part of its pre-election advice to the WA Fishing Industry Council, the Labor party indicated that it had not considered a resource rent tax beyond those that already exist as mineral royalties. One reason for rejection of the concept by the then shadow Minister for Fisheries was that it would be an extremely difficult tax to construct within the principles of equity that are required.¹² The matter was also given some attention by the Government's Expenditure Review Committee during 2001, however, it was agreed that any such proposal should be "put on hold".

9.6.2.4 Recreational Licensing

Recreational fishers currently provide some contribution to recreational fisheries management through licensing of key sectors/species. Approximately 60,000 licences are issued annually generating about \$1.7m, which is about 15 per cent of the current cost of managing recreational fisheries¹³. A specific proposal for a general recreational fishing or "angling" licence has not been put formally to Cabinet in Western Australia, however additional species-based licensing has been proposed in the past for crabs and prawns.

Successive State Governments over the last decade have explicitly removed from their public agenda consideration of a general angling licence during their terms of Government. Successive Ministers have, however, recognised the need for additional funding, particularly for the management of finfish stocks, and potential for increased user contributions continue to be raised.

Licence fees should not be seen as a replacement for the existing "public good" consolidated fund contribution by Government, but as a source of additional revenue to meet funding gaps and provide improved research, compliance and management outcomes.

¹¹ Australian Bureau of Agricultural and Resource Economics. Resource rent in fisheries – discussion paper 1990.

¹² Extracted from 'A Special WAFIC Election 2001 Bulletin'.

¹³ Report of the Integrated Fisheries Management Review Committee. November 2002.

9.6.2.5 Increased Government Contribution

Government currently contributes approximately \$21 million towards the Department's total operating budget of \$47 million. There is little scope for this contribution to be increased under the current Government funding environment given, for example, Government's commitment to savings measures required to deliver election commitments in areas of priority. In casting annual budgets, Departments have also been advised that new proposals will only be considered in the context of current forward estimates.

Key Points

- *There are funding issues and gaps facing fisheries management in Western Australia, irrespective of the institutional arrangement by which fisheries is administered.*
- *The introduction of an SMA may result in some specific operational costs relating to the Board and associated support structures.*
- *Future funding or revenue options are in the areas of further cost recovery, an increase in the Development and Better Interest Fund, a shift to a resource rent, additional recreational fishing licensing and increased Government contributions.*

9.7 Marine and Coastal Planning

One of the difficulties facing the fisheries sector in the marine environment is the common property nature of marine resources and poorly defined user rights. There is increasing pressure on the marine environment from a variety of users, including those in the aquaculture, fishing and tourism sectors, together with a growing community desire for unfettered access to the marine environment and for conservation of important areas, habitats and species.

For certain types of aquaculture, there is a shortage of high quality marine sites. Suitable sites tend to be in high use areas and close to major townsites. This often results in a high level of conflict between aquaculturalists and other users and the general community.

There is also a degree of uncertainty with respect to native title in the marine environment although this has been mitigated to some extent by the recent *Croker Island* High Court decision.

Currently, a number of State Government departments undertake planning work in the marine environment. While departments and interest groups work together to integrate their activities, there is no legislative framework for planning in the marine environment. In addition, existing land use planning processes for coastal lands often do not integrate the use of coastal land and the use of the adjoining marine environment. Since expectations for the use of the coastal and marine environment are diverse, this shortcoming will lead to increasing conflict between users as the development of the State intensifies.

The lack of a whole of Government policy and approach to the resolution of marine planning issues is a significant strategic issue that creates uncertainty around investment, barriers to community and industry development, and encourages inefficiency in Government service delivery. The issue cuts across a number of portfolios, legal and departmental areas of responsibility including Minerals and Energy, Fisheries, Conservation, Land Administration, Planning and Infrastructure.

Key Points

- *Pressure on the marine and coastal environment is increasing from a range of user groups.*
- *Direct competition for space is increasing which has an impact on the fisheries and aquaculture sector.*
- *There is a need for a whole-of-Government approach to marine and coastal planning in WA with appropriate supporting legislation.*

9.8 Aquaculture Development

Aquaculture in Western Australia has a substantial role to play in the production of seafood and other quality products such as pearls and algal beta-carotene. The opportunity for growth in the world's wild fisheries is limited, as they have reached their maximum and are now declining from their projected maximum sustainable yield of about 100 million tonnes per annum. The prediction is that world demand for seafood product will rise to 150 million tonnes by 2050. Aquaculture is the only way that this demand will be met.

In Western Australia, commercial fisheries are unlikely to increase in size especially as competitive pressure grows from recreational fishers. Aquaculture is the only way forward for a larger seafood industry. While aquaculture is at its early stage of the development cycle, it has the potential to make a significant contribution to the State's economic activity particularly in regional and rural areas. Effective environmental and fisheries legislation is essential if aquaculture is to become and remain an environmentally sustainable industry in Western Australia.

The greatest growth in gross value of production is expected to come from the aquaculture of prawns, marine algae (for beta carotene), abalone and barramundi. Other species with significant development potential include marine finfish species, such as snapper, yellowtail kingfish and mahi mahi. Aquaculture also has the capacity to yield significant benefits for Aboriginal communities through the restocking of trochus in indigenous fishing areas and for agriculture farmers through the use of inland saline waters.

The State Government's major aquaculture development strategy, which commenced in July 1994, is now being rewarded through encouraging signs in growth in industry value and participation levels. The initiative has supported the operations of the Department's Aquaculture Program, the appointment of regional Aquaculture Development Officers, various research and development initiatives, the Aquaculture Development Council and the Aquaculture Development Fund (\$200,000 per year). Major developments include the establishment of capital infrastructure for aquaculture, the undertaking of key research projects on a wide range of species, the development of specific policies and guidelines and the refinement and streamlining of the aquaculture approval process.

Early in 2001, the industry's peak industry body, the Aquaculture Council of Western Australia (ACWA), recommended to the Minister that it would be appropriate to undertake a review of the industry's development, in light of growth not fully meeting expectations.

The Minister subsequently established a review process, including the preparation of a Development Plan and a Legislation Review. The development plan will include appropriate structures for the management and development of aquaculture and clarify the roles and responsibilities of the Department, the Aquaculture Development Council and ACWA. The Legislation Review will result in recommendations on how the *FRMA* and other relevant legislation can be amended to facilitate sustainable development and improve the management of aquaculture in WA.

It is anticipated that the outcomes of the review processes will be available in March 2003.

Key Points

- *The Department is the lead agency for aquaculture management and development, as set out in fisheries legislation.*
- *An aquaculture review is currently underway with a view to preparation of a development plan and improved legislative provisions.*

9.9 Abrolhos Islands

The Abrolhos Islands are an A-Class Reserve vested in the Minister for Fisheries for the conservation of flora and fauna, tourism and purposes associated with the fishing industry. They are managed by the Department under regulations established pursuant to the *FRMA*.

The Abrolhos Islands Management Advisory Committee (AIMAC) has been established by the Minister to provide advice on Abrolhos Islands management issues. The Department's management responsibilities for the Abrolhos Islands are unique in that they extend beyond fish and fish habitats and include island management such as the construction and use of airstrips, tracks, fences, signs, jetties and moorings.

The Abrolhos Islands and adjoining State Territorial Waters are an important part of the Western Australian environment. The Abrolhos System is of major significance for the conservation of flora and fauna, and is also significant in geological terms. In addition, the adjoining State Territorial Waters contain some of the most highly valued marine systems in the State and are gazetted as a Fish Habitat Protection Area.

These waters also include the sites of some of the most historically important shipwrecks in Australia with associated historic sites located on the islands themselves. The area is also integral to the highly valuable western rock lobster fishery. The waters are a principal breeding habitat for rock lobster and a substantial source of lobster product.

The previous Government had approved amending legislation to the *FRMA* to create a Management Authority to manage the Abrolhos Islands under the approved Abrolhos Islands Management Plan and to report to the Minister. The Authority was proposed to ensure coordinated management of the Abrolhos Islands and their surrounding waters and to provide a dedicated body with clear responsibility for integrated management of the many issues unique to the Abrolhos system.

Given current Government policy, this proposal is no longer proceeding and the Islands will continue to be managed by the Department under the *FRMA*. AIMAC will also continue to provide advice to the Minister on the management of the Islands.

Key Points

- *The Abrolhos Islands are vested in the Minister for Fisheries for the conservation of flora and fauna, tourism and purposes associated with the fishing industry.*
- *The Islands are managed by the Department under regulations established pursuant to the FRMA.*
- *The AIMAC is a major source of advice to the Minister on Abrolhos Islands management issues.*

9.10 Accountability/Reporting/Performance

There is a need to ensure that there is a high level of accountability and performance in the delivery of fisheries management in Western Australia. Existing reporting processes have been outlined in section 3.7 and these, or similar processes, will need to continue into the future.

There is a need to also develop and report performance indicators relevant to 'sharing' the fish resources of the State. This work will commence during 2002/03 and be further developed as the implementation of integrated fisheries management progresses.

Work also needs to continue with the Environmental Protection Authority (EPA) to prepare a framework for reporting on ESD for all Western Australian fisheries. Such a framework should be linked to a regular audit cycle involving the EPA and periodic reporting to the Office of the Auditor General. There is also a need to combine the processes for reporting to the State and the Commonwealth so as to avoid multiple reporting processes.

10. EXAMINATION OF STATUTORY AUTHORITY COMPARED TO DEPARTMENTAL MODEL

Much has been written and said about the statutory model versus the Departmental model in relation to fisheries resource management. The purpose of this section is to provide an overview of the experiences in a number of Australian jurisdictions and to glean the advantages and disadvantages of each approach. The discussion draws upon a range of reference documents.

10.1 The Commonwealth Experience

In 1988, Peat Marwick Hungerfords Management Consultants reported to the Commonwealth Government on a review of the administrative arrangements for the management and development of Australian fisheries subject to Commonwealth jurisdiction¹⁴.

At that time, Commonwealth fisheries were managed by the Australian Fisheries Service (AFS) – a Division of the Department of Primary Industry and Energy (DPIE). This review was followed by the development and announcement in 1989 of a comprehensive Commonwealth fisheries policy statement¹⁵ which, among other things, addressed in some detail the most appropriate structure for Commonwealth fisheries administration, and established the Australian Fisheries Management Authority – a statutory authority responsible for day-to-day Commonwealth fisheries management.

The review report and policy statement provided an overview of the advantages and disadvantages of alternative models for fisheries administration including the statutory authority model and Departmental models (either as a division or as an office/bureau of a larger primary industries Department). The discussions and ultimate decisions were taken within the context of (1) Commonwealth fisheries management having historically being placed within a (broader) Department of Primary Industry and Energy and (2) Commonwealth fisheries management being limited largely to commercial fisheries without specific broader responsibilities in relation to recreational fishing, aquaculture and fish habitat protection.

The review reported highlighted a number of difficulties of the AFS being placed within DPIE. Those of particular relevance to this discussion include:

¹⁴ Report on the Review of the Administrative Arrangements for the Management and Development of Australian Fisheries subject to Commonwealth Jurisdiction. 16 November 1988.

¹⁵ New Directions for Commonwealth Fisheries Management in the 1990s A Government Policy Statement. December 1989.

Conflicts of Purpose

In essence, it was argued that the responsibilities of the Department in servicing the Government of the day had detracted from the primary function of natural resource management. It was considered that two organisational units were required to achieve the two separate goals – one being a traditional public service arm of the Department and one being either a Bureau or Statutory Authority (but not a Division of the Department) to achieve the one clear goal of fisheries management.

Priorities, Practices and Procedures

It was considered that the priorities, practices and procedures of the Department often did not coincide with those of AFS and may have adversely affected AFS. Comment was made that a statutory authority would have responsibility and accountability to achieve a clear and unitary goal.

Accountability

It was considered that the then Government policies on statutory authorities would result in enhanced accountability.

Culture

It was argued that a stand-alone authority would achieve a culture of commitment to excellence with a single focus on fisheries management. Furthermore, it was considered that this culture would be the drive to “internalise” the benefits and costs of management within the organisation and result in a more commercially oriented focus.

The subsequent policy statement arising from the review concluded that ‘a statutory authority would have advantages arising from its public accountability requirements, the clear identification of Ministerial and authority responsibilities in the enabling legislation, more opportunity for industry involvement in decision making, and increased pressures for cost efficiency.’ Some risks were also highlighted in relation to ‘duplication and additional levels of bureaucracy resulting from the split of functions between a statutory authority and DPIE....’

The 2000-2001 AFMA Annual Report summarises the AFMA model as follows:

“AFMA was created as a professional statutory body, at arm’s length from government, that could undertake the government’s responsibilities for fisheries management in an open and accountable manner, and provide sound long-term natural resource management. This is a significant departure from fisheries management under a minister/government department framework.

The main elements of the AFMA model include the organisation’s day-to-day independence from the Minister, a strong partnership approach with key stakeholders, specific accountability requirements and rights-based management arrangements. Together these elements provide effective, transparent and publicly defensible management of Commonwealth fisheries.”¹⁶

¹⁶ Page 6.

There have been a number of reviews of AFMA and Commonwealth fisheries management/legislation since 1992 including a Senate Inquiry in 1993, an Australian National Audit Office (ANAO) performance audit in 1996 and, in 1997, a House of Representatives review of the ANAO audit¹⁷.

A further review of Commonwealth fisheries management was announced in July 2000 and is nearing conclusion however the outcomes are not expected to result in any fundamental shift in the current institutional frameworks for Commonwealth fisheries management.

10.2 The Tasmanian Experience

10.2.1 Marine Fisheries

In response to a 1976 report¹⁸, in 1977 the responsibility for marine fisheries management in Tasmania was transferred from the then Department of Agriculture's Sea Fisheries Division to a new body – the Tasmanian Fisheries Development Authority. The Authority was established for the purpose of developing the potential of the sea fishing industry given the over dependence of the industry at that time on established fisheries. It was considered that due to the specialised nature of the fishing industry, a statutory agency with overall responsibility for the development of Tasmania's commercial sea fisheries would be the most appropriate organisation to undertake this work.

A review was undertaken in 1984¹⁹ to, among other things, make recommendations on the desirability or otherwise of effecting changes to the administrative structures and procedures, including consideration of reconstituting the present Authority as a Department. The review report pointed to a number of problems with the Authority including the ambiguous nature of its original structure, a lack of clear corporate planning and policy formulation and inadequate internal organisation and communication.

The review report also gave consideration to aspects of the Report of the Review of Tasmanian Government Administration (“the Cartland Review”)²⁰ which dealt with general problems and principles relating to organisation and structure, administration and performance, and relationships involving responsibility and accountability.

¹⁷ Refer reference list for details.

¹⁸ Recommendations for the Commercial Development of the Tasmanian Sea Fishing Industry. 1976.

¹⁹ O'Kelly B.M. Report on the Review of the Fisheries Development Authority: Presented to the Chairman of the Public Service Board. July 1984.

²⁰ Report of Phase II of the Review of Tasmanian Government Administration. First Instalment presented to the Tasmanian Government by Sir George Cartland.

Having regard to the general thrust of the Cartland Review and the particular issues facing the Authority, the review concluded that a separate Government Department would be the most appropriate structure for implementing future government policy for the fishing industry and that this should replace the Fisheries Development Authority. The responsibility for marine fisheries in Tasmania subsequently reverted to a new Department of Sea Fisheries in 1985. A Departmental structure has been retained for sea fisheries management since that time [now the responsibility of the Department of Primary Industries, Water and Environment].

10.2.2 Inland Fisheries

Since early 2000, inland fisheries has been the responsibility of the Inland Fisheries Service, a stand alone part of the Department of Primary Industries, Water and Environment. Prior to that (for 140 years), inland fisheries management was the responsibility of a statutory body – the Salmon and Freshwater Commission and, since 1959, the Tasmanian Inland Fisheries Commission. A review in 1996²¹ of the Inland Fisheries Commission highlighted a number of issues including the Commission's inadequate funding base and lack of integration or formal relationships with other natural resource management and environmental agencies.

This matter was given some attention in the Victorian inquiry into fisheries management where the Tasmanian Department of Natural Resources and Environment made the following comments in relation to the Inland Fisheries Commission:

“as a statutory authority there were advantages in terms of independent decision-making and control and retention of its own finances, etc in latter years these advantages were very much eroded”.²²

The following problems were also highlighted:

- a serious lack of financial resources;
- senior management having to be continually focussed on financial viability;
- a growing complexity in, and overlap of agency responsibility for, natural resource management;
- being left out, bypassed or overridden by larger management agencies;
- little sharing of information with other Government agencies; and
- limited ability to access specialist resources such as information technology, communications and legal advice.

²¹ Davies P and Hussey F. A Strategic review of Inland Fishery Management, Tasmania: Final Report to the Minister for Inland Fisheries, The Hon. Mr John Cleary MHA. November 1996.
²² pp42.

10.3 The Western Australian Experience

10.3.1 Fisheries Portfolio Review

Fisheries management in Western Australia has always rested within a Department, although there have been a number of structural changes over the years. Fisheries management currently rests with a stand-alone Department of Fisheries. This arrangement has been in place since 1985.

In 1994, a review of the fisheries portfolio considered, among other things, the structure of the Department. The review considered various options including replacement of the Department by a statutory authority directed by a representative board. The potential benefits were seen as increasing the agency's discretion and flexibility although it was noted that this may be offset by the diminution of Departmental independence from sectional interests. The major disadvantage of this option was highlighted as the loss of a direct reporting relationship between the chief executive and the Minister and the potential for challenges to Ministerial accountability.

Ultimately, the Departmental model was retained, although the Department was restructured on a program basis coupled with a stronger focus on regionalisation.

In the 1994 review, particular cognisance was taken of the issues of public accountability as espoused by the Commission on Accountability²³. The Commission strongly recommended the need for Ministerial control and access to information. The report indicated that the strictest level of accountability would stem from an entity which has a departmental structure reporting to the Minister. In this way, the broader public interests and a whole of Government perspective could be brought to all the functions included within the role of a Government agency.

The 1994 review culminated in a joint statement²⁴ at the 1995 WAFIC Annual General Meeting by the then Minister and then Chairman of WAFIC, which outlined the future directions for fisheries management in Western Australia including, among other things, opportunities for greater industry involvement in fisheries management and improved accountability.

²³ Western Australian Commission on Accountability. Report to the Premier, the Honourable P.M'C. Dowding, LL.B. 1989.

²⁴ Hon Monty House MLA Minister for Fisheries & J Cole Chairman Western Australian Fishing Industry Council. Future Directions for Fisheries Management in Western Australia: Presented to the 1995 Annual General Meeting of the Western Australian Fishing Industry Council. 22 September 1995.

10.3.2 Submission from WA Fishing Industry Council

In 1997, WAFIC provided a submission to Government (“the WAFIC submission”) seeking a full investigation into the merits of creating a statutory authority for the management of fisheries in Western Australia.²⁵ It was recommended, among other things, that the investigation should involve extensive consultations with industry and other key stakeholders and should examine the effectiveness of statutory authorities elsewhere including AFMA and QFMA. It was also recommended that a full performance review of Fisheries Western Australia be undertaken to assess the effectiveness and efficiency of current operations and the cost and resource implications for a transition to a statutory authority.

The WAFIC submission reflected on the 1995 statement by the then Minister and then Chairman of WAFIC, and highlighted a number of shortcomings since that time including (in general terms):

- Opportunities for openness, more inclusive management and greater accountability had not been realised.
- The implementation of cost recovery (refer section 3.6) had created strains in the relationship between industry and the Department.
- The internal culture of the Department had not shifted sufficiently to embrace greater participation by industry in decision making.
- Financial information and Departmental budgeting was inadequate.
- The role of MACs (refer section 3.4) was not properly recognised.
- A lack of clear policy on security of access and property rights of fishing licences.
- The Department’s responsibility for a set of very broad and conflicting objectives was a major constraint on the current institutional arrangements for fisheries management. While there were certain benefits in a fully integrated approach, industry had observed problems for the Department in coping with multiple agendas and developing internally a common sense of purpose or mission.
- There was a need to separate strategic policy formulation from operations/delivery which would, among other things, produce better policy for Government and result in a stronger focus on core business.
- There was insufficient commercial expertise within the Department to adopt business-like practices.
- An inability to manage staff flexibility to meet the needs of its clients and respond quickly to changing circumstances.
- It was not possible to assess the efficiency and effectiveness of the Department at either the micro or macro level.

Given the above, WAFIC pointed to three major benefits of an authority:

- Stronger partnerships with industry.
- Clarity of purpose and a more business-like approach.
- Greater accountability.

²⁵ Unpublished. Comments in this section reflect matters raised by WAFIC in its submission in 1997. It is acknowledged that WAFIC may have a more current position. Information from the 1997 submission is provide to ensure a complete scoping of important issues.

Specifically, the submission pointed to the following likely benefits:

- A more accountable, focussed and skilful management of fisheries under the guidance of an expertise based Board.
- A stronger and better defined policy framework for fisheries management (which includes conservation values and equitable access to resources) through the separation of Government policy setting from policy implementation.
- Greater industry involvement in fisheries at both the management and operational levels and greater incentives for industry to participate as partners in achieving effective and efficient fisheries management.
- The establishment of a management culture and operational environment which is responsive to the expectations of industry as a major funder of services.
- Smoother transition to full cost recovery and more cost-effective management on behalf of Government.

WAFIC noted in its submission that the most appropriate, structure, role and functions for a statutory authority would need to be investigated more fully, discussed and debated. However, it pointed to a number of key principles and requirements in relation to the scope of the authority's role and functions, Board structure, the role of Management Advisory Committees, enabling legislation, and options for research and aquaculture.

The submission also pointed to risks of a move to a statutory authority if the authority was not given a comprehensive mandate to manage fisheries in the State. The need for the authority to have sufficient scope and responsibility for all major management functions, the appointment of an expertise-based Board, a skilful executive and appropriate supporting legislation was highlighted. Given the potential benefits and risks, a thorough review of the benefits, risks and costs of establishing a statutory authority was required prior to any decision being made to change the current arrangements.

The Government of the day examined the submission and did not support any shift of the Department's roles and functions to that of a statutory authority. The Government's response pointed to:

- The recommendations arising from the Commission on Accountability.
- The problems associated with the potential transfer of control of fisheries management from the Minister to a Board of Directors and the potential imbalance in power between the broader public interest on the one hand and sectoral interests on the other.
- The McCarrey Commission's observation that the number of statutory authorities was excessive and "makes for an inflexible, cumbersome and, at times, unresponsive administrative structure"²⁶.

²⁶ McCarrey et.al. Report of the Independent Commission to Review Public Sector Finances. Agenda for Reform. Volume 1 June 1993. pp180.

- The Fielding Review of the Public Sector Management Act in 1996²⁷ which supported a view by a former Head of the Office of the Prime Minister, who stated that statutory authorities “should only be created or retained where there is a clear requirement for independence from government with specified powers to be exercised independently”. The view was that departments are to be preferred because they give more flexibility and greater scope for government direction.
- The specific issue in Western Australian fisheries of having to maintain a balance of operations and activities across a diverse stakeholder group (as opposed to the Australian Fisheries Management Authority where the focus is substantially on the management of large commercial fisheries).
- The need for final accountability to rest with the Minister rather than a transfer of responsibility to a board or public official.

10.3.3 Machinery of Government Taskforce

As outlined in section 7, in June 2001, the Machinery of Government Taskforce reported on a review of Western Australia’s machinery of government. The Taskforce addressed in some detail the structure of the public sector in Western Australia and departmental versus non-departmental institutional forms.

The Taskforce drew from a New Zealand report²⁸ and commented that as a general rule, departmental status tends to be the preferred option when a high level of Ministerial responsibility is deemed appropriate. In this regard, the departmental form is better suited to organisations undertaking activities that:

- are not readily contestable due to problems either in specifying the nature of the outputs required or in assessing performance on the delivery of the outputs, or where it is likely that the outputs required will need to be re-specified frequently;
- are “material” because they are of high strategic relevance to government or society, and the risks associated with them would be managed more effectively if the provider were subject to direct and close Ministerial oversight; or
- involve the use of significant coercive power (for example, policing or tax collection), so the principle of political accountability requires Ministers to have direct oversight and responsibility.

By contrast, non-departmental institutions (eg. statutory authorities) tend to be favoured when:

- there is less need (or political pressure) for frequent ministerial involvement because activities must be, and must be seen to be, undertaken independently of Ministers. This may be because the government itself may be bound by decisions or because it is important to signal publicly that an activity is carried out free from political interference;

²⁷ GL Fielding. Review of the Public Sector Management Act. A Report to the Hon RF Court MLA Minister for Public Sector Management. April 1996.

²⁸ New Zealand State Service Commission. Crown Entities: Organisational Design. Occasional Paper No. 21

- the government has a more limited purchase interest (because the activities undertaken are not sufficiently risky); or
- there are fewer problems in specifying and measuring organisation outputs.

The Taskforce noted that New Zealand's State Service Commission employed the following design principles when undertaking machinery of government reviews –

Effectiveness and efficiency – organisational design choices should be made to best achieve government's desired outcomes (that is, effectiveness) and the lowest cost production of outputs (that is, efficiency). In this regard:

- commercial activities should be assigned to organisations with commercial objectives;
- non-commercial activities should be assigned to a commercial organisation only if the net cost of these activities is explicitly funded by the Crown;
- there is a presumption in favour of making contestable the activities of commercial organisations and non-commercial service delivery activities that do involve the exercise of significant statutory powers;
- functions which conflict for constitutional or commercial reasons should be assigned to separate organization. In other cases, the costs and benefits of functional separation should be considered, and a decision to co-locate or separate the functions made on the specifics of each case; and
- where an agency is to be asked to undertake potentially conflicting functions, there is a presumption in favour of the departmental form.

Risk management – organisational design choices should be made to best manage the risks posed for government by the activities to be undertaken by a public sector organisation:

- if an activity represents a high level of strategic risk, then the departmental form may be preferred;
- if an activity poses significant risks associated with poor contestability, there is a presumption in favour of the departmental form;
- if the choice between a departmental form and a non-departmental form is not clear cut, there is a presumption in favour of the departmental form.

Constitutional conventions – organisational design choices should be made to best protect established constitutional arrangement and conventions:

- where constitutional consideration indicate a need for close Ministerial oversight, or for direct Ministerial responsibility, there is a presumption in favour of the departmental form; and
- if an activity must be, and must be seen to be, undertaken free of political interference, and there are no compelling reasons for close Ministerial oversight, the non-departmental form may be preferred.

The Taskforce drew from the principles outlined above and modified these, as appropriate, to reflect the Western Australian context. This resulted in a set of principles for Western Australia, which included:

“Machinery changes should be based arounddepartments as the preferred organisational arrangement. Statutory authorities should only be created where there are compelling reasons to do so”²⁹

From a Machinery of Government perspective, the Taskforce report alluded to a number of issues concerning the existing statutory authority arrangements in Western Australia. Of particular relevance was the concern about the plethora of statutory authorities in Western Australia. The Taskforce report noted that previous reviews of Western Australia’s Machinery of Government had expressed a common view that there were too many statutory authorities within the State’s public sector. The Taskforce pointed to both the McCarrey Commission and the Fielding Review.

The significant growth in statutory authorities in Western Australia was also noted, and to check the continued growth in the number of statutory authorities, the Taskforce believed that more stringent scrutiny needed to be brought to bear on proposals to establish new agencies having a statutory basis. The Taskforce therefore recommended that a statutory authority should be established only if its proposed functions could not be performed by a department or it would be inappropriate for them to be performed by a department (recommendation 8).

The Taskforce also considered that many statutory authorities currently perform functions that could be undertaken with equal facility by a department, and it was not always clear why statutory authorities required greater independence from Government compared with departments of State.

The Taskforce again pointed to comments made by the McCarrey Commission and Fielding, and was of the opinion that to reduce the number of statutory authorities in Western Australia and provide the Government with greater control over the implementation of its policies, that the functions of each statutory authority in the Western Australian public sector should be reviewed to assess the appropriateness and feasibility of incorporating those functions into department of State (recommendation 9). A number of these reviews are complete, while others are underway.

10.4 The Queensland Experience

The QFMA began operations in December 1982. The Authority was responsible for fisheries management while the Fisheries Section of the Queensland Department of Primary Industries (QDPI) was responsible for a range of other - although closely related – activities, including research and development, habitat management, compliance and aquaculture.

²⁹ pp 23.

In May 1999, the Queensland Minister for Primary Industries announced an internal review of the administrative and institutional arrangements for fisheries management in Queensland. In a statement to Parliament³⁰, the Minister noted that there was ongoing confusion over who does what when it comes to the responsibilities of the QFMA and the Fisheries Section of QDPI. The Minister advised that the terms of reference for the internal review would cover:

- Identifying and defining the roles and areas of responsibility and accountability and lines of communication between the QFMA, the QDPI and the Minister for Primary Industries.
- The resources and range of skills needed by the QFMA to effectively manage Queensland Fisheries.
- Recommend changes to the current Fisheries Act, DPI and QFMA structures to implement the Queensland Government's policy on the ecologically sustainable development of Queensland fisheries.

In May 2000, the Primary Industries Minister announced new arrangements for fisheries management in Queensland, including:

- Disbanding the QFMA and QDPI Fisheries from 1 July 2000.
- Amalgamating the staff and functions of the QFMA and QDPI Fisheries.
- Forming a new, single body for fisheries management in Queensland – the Queensland Fisheries Service.
- Appointing a non-statutory “expertise”-based board to advise the Minister and Department on fisheries management.
- Creating a direct link between the three areas of management, research and enforcement.

While review documentation is not available, some of the issues facing fisheries management in Queensland at the time can be gleaned from the Minister's statement, including lack of clarity on roles and responsibilities, and accountability and communication issues. This was further highlighted in a Queensland Fisheries newsletter³¹ in May 2000, in which the Minister noted there had been confusion among stakeholders and the wider community regarding the roles and responsibilities of QFMA and QDPI Fisheries.

In response to the new arrangements, the then Chairman of QFMA John Kerin noted³²:

“....government's decision to form a Queensland Fisheries Service from 1 July 2000 ushers in a more integrated management for Queensland fisheries”.

³⁰ 27 May 1999.

³¹ Queensland Fisheries Management Authority and Queensland Department of Primary Industries. Queensland Fisheries News. Issue 7 May 2000.

³² Ibid.

John Pollock, then head of QDPI Fisheries and QFMA board member, commented³³:

“Fisheries now has a clear mandate to create a new unified organisation that integrates all of our functions that make up good fisheries management and development.”

10.5 The Victorian Inquiry

The recent Victorian inquiry into fisheries management³⁴ reviewed current and past statutory fisheries authorities in Australasia. The inquiry committee examined statutory management authority experiences in the Commonwealth, Queensland, Tasmania and New Zealand.

The committee also received a number of submissions providing opinions about the statutory authority model for Victorian Fisheries. Submissions were both in support of and against a statutory model. The range of comments in support of a statutory model pointed to number of possible advantages, including:

- improvement in relationships between Government, commercial and recreational fishers and environmental organizations;
- may lessen lobbying by interest groups of the Minister;
- transparency of processes and procedures and accountability to the community;
- improved industry focus on development and sustainability issues;
- stakeholders encouraged to become more involved in fisheries management;
- increased accountability to the various stakeholders, the community and the Parliament; and
- improved ability to achieve legislative reform.

The potential disadvantages raised by respondents included:

- the need to get an expertise based board driven without domination by sectoral interests;
- loss of flexibility by Government in allocation of resources as well as a loss of control of decision making;
- possible requirement for a significant capital contribution by Government towards the authority;
- possible tax implications for the State;
- possible increased cost to industry if the structure is not well designed and mandate clear;
- Government may lose contact with its constituency;
- accountability and transparency may be reduced;
- staffing and industrial impacts;
- potential for client capture;
- difficulties in dealing with cross-sectoral conflict and balancing competing interests;
- inability to reconcile competing demands of various client groups;

³³ Ibid.

³⁴ Environment and Natural Resources Committee. Inquiry into Fisheries Management First Report: Co-management. December 2001.

- little incentive to consider the broader ‘public interest’; and
- possible research and development issues with respect to priority setting.

Ultimately, the Victorian inquiry found, among other things, that:

1. Statutory fisheries management authorities appear to have been most successful where their responsibility is for single-sector fisheries and where there is a clear client group that can be targeted for cost recovery.
2. Statutory fisheries management authorities appear to have been least successful where required to manage State waters subject to multi-sector fisheries and of high value for non-fishing uses.
3. That a single statutory authority not be established to manage Victoria’s fisheries.

Key Points

- *The Commonwealth experience points to management of Commonwealth fisheries being more efficient and effective if delivered by a statutory authority rather than a division of a larger Government Department.*
- *Tasmania has in the past managed both its inland fisheries and sea fisheries through statutory authorities, but has now reverted to Departmental models for both.*
- *Past Governments in Western Australia have not supported a statutory model principally given accountability issues.*
- *Queensland has recently reverted from a statutory to a Departmental model given issues around lack of clarity on roles and responsibilities, accountability and communication.*
- *A recent Victorian inquiry concluded that statutory authorities appear to have been most successful where their responsibility is for single-sector fisheries and where there is a clear client group that can be targeted for cost recovery and least successful where required to manage State waters subject to multi-sector fisheries and of high value for non-fishing uses.*

11. ISSUES FOR GOVERNMENT IN CREATION OF A STATUTORY AUTHORITY

11.1 Role and Function of a Statutory Authority

If a fisheries statutory authority is to be established in Western Australia, careful consideration must be given to its role and function and relationships with, for example, the Minister and broader Government policy functions.

Under a fisheries statutory authority model, the authority's level of delegated power over the management and regulation of the State's fisheries could be at any point along a continuum between the pure departmental form and the statutory authority form. For example, the Minister could have various levels of control over matters such as:

- Size and composition of the Board including appointments.
- Size and detail of the annual budget.
- Level of reporting and accountability requirements.
- Approval of fisheries management plans.

These powers would be defined in legislation.

The degree of Ministerial direction to the Board would also have to be determined as well as its transparency. Under the AFMA model, for example, all such directions are published in its Annual Report.

Decisions would also have to be made about how areas of disagreement between the Board and the Minister are dealt with. This is of particular importance should the Board have a degree of independent regulation making power.

It has also been common practice in the establishment of fisheries statutory authorities in Australia (eg. AFMA and QFMA) to separate the day-to-day operational role from the broader policy role, although experience in these same jurisdictions point to the lines often being blurred. This relationship would need to be considered as part of the determination of role and function of any fisheries statutory authority.

11.2 Structure of a Statutory Authority

There is no hard and fast delineation between a statutory authority (or authorities) and a Department, noting that, as described in 11.1, agencies will lie somewhere along a continuum.

The Machinery of Government Taskforce report provided a general description of the main structural differences between Departments and statutory authorities, as follows.

Departments essentially exist to support a Minister in pursuing Government objectives and delivering services. They are typically responsible for a range of activities, including policy development, coordination, implementation and regulation. Any commercial activities are normally incidental to the Department's primary function.

There is a direct reporting relationship between the head of the Department and the responsible Minister. Departments are generally responsible to only one Minister, but may provide support or advice to other Ministers.

Departments usually have minimal financial autonomy and are normally dependent on the Consolidated Fund for their operation and viability.³⁵ This enables the Government to closely control the priorities of and resources allocated to organisations.

In addition, within Western Australia, departments of State are normally characterised by a need or desire for their staff to be employed principally under the *Public Sector Management Act 1994*.

Statutory authorities are established by statute and have the following general features:

- Usually constituted as a body corporate.
- Have a responsible Minister.
- Usually have a board of management.
- Have functions and powers defined by its statute.

In a Western Australian context, the fundamental difference between a Department and a statutory authority is that a Department is created under the *Public Sector Management Act 1994*, while the Statutory Authority has a specific piece of legislation setting out its functions and powers.

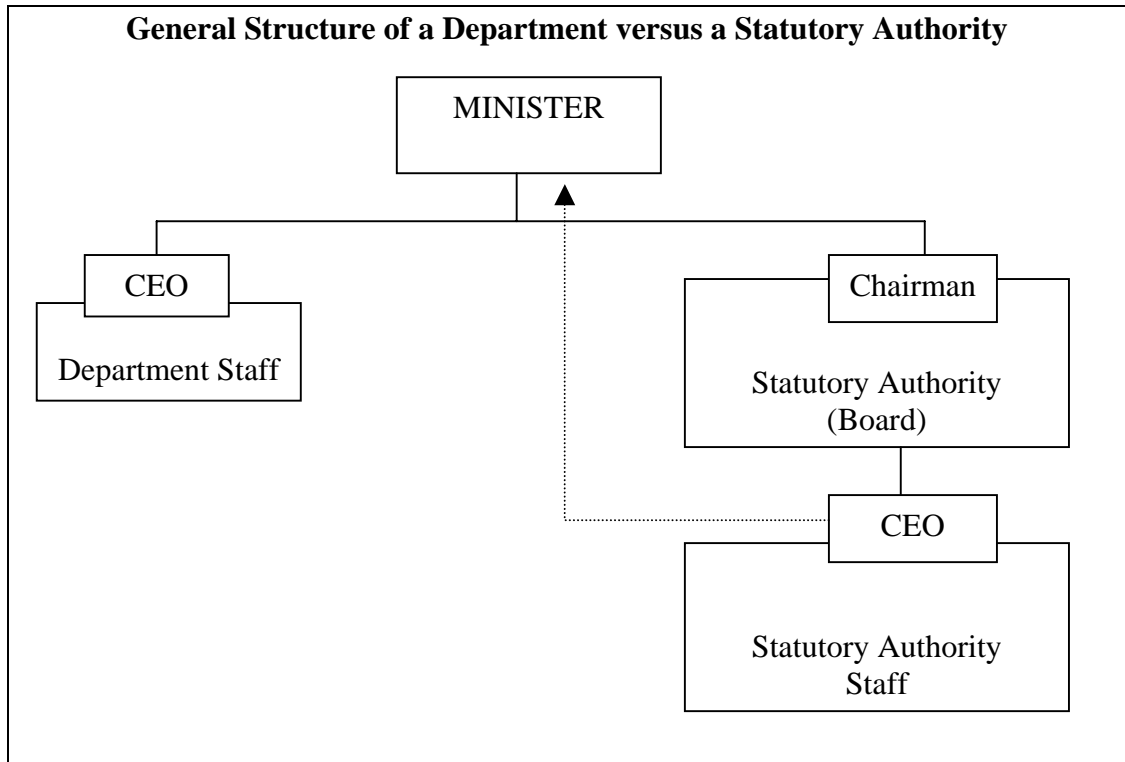
Clear lines of accountability suggest that appointment of the CEO of a statutory authority be made by the Board with other staff also appointed by the Board. However, there are many instances where governments have chosen to have the CEO appointed by the Minister (e.g. Perth Zoo) as an added measure to maintain Ministerial control of the authority and responsiveness to the Government of the day.

The CEO of a Department reports direct to the Minister, while the CEO of a statutory authority reports to a Board. The Chairman of the Board reports to the Minister. As noted above, however, there may be instances where the CEO is employed by the Minister and therefore also has a reporting relationship with the Minister.

The following diagram shows the general structure of a Department versus a statutory authority.³⁶

³⁵ The Department of Fisheries funding arrangements are outlined in section 3.6.

³⁶ Adapted from Machinery of Government Taskforce report.



A statutory authority may also comprise a single statutory officer, or the Portfolio Minister. If a single officer only, then the authority may have an advisory board.

11.3 Enabling Legislation and Powers

Any change in the institutional arrangements governing fisheries management in WA will require legislation. A number of existing and past legislative models around Australia could be used to assist in the framing of appropriate legislation for a statutory authority. Unless given high priority, Parliamentary and implementation processes for any new primary legislation are likely to take in the order of 2-3 years.

11.4 Board Membership

If a statutory authority is to be created and if it is to have a Board, careful consideration must be given to the structure of the Board. Options include a representative and/or expertise based structure. The Auditor General (1998) found that governing Boards or committees with members appointed as representatives of external stakeholders are exposed to potential conflicts of interest. Accordingly, the preferred model in Western Australia is for Board membership to be expert based.

The Board may also be comprised of the Minister alone. In Western Australia, public servants within the Minister's portfolio should not be members of boards. It is also noted that the Commission on Government Report No 4 (1996) recommended that public sector employees should not be appointed to the board of a publicly owned corporatised body while retaining a position in a department or agency within any portfolio of the Minister responsible for that body, in order to avoid potential conflicts of interest.

AFMA has an expert based Board, established under the Commonwealth *Fisheries Administration Act 1991*. The Board consist of eight members including a Chairperson, Government Director, Managing Director and five nominated directors. Importantly, no more than two directors can be currently engaged in fishing or fish processing.

Directors, other than the Managing Director, are appointed by the Minister. The five nominated directors are recommended by a selection committee established under the Act on the basis of expertise in areas such as natural resource management, the fishing industry, finance, conservation and research. The Board is assisted by a Finance and Audit Committee, a Research Committee and an Environment Committee.

Despite an expertise base, there is a need to ensure that mechanisms are in place to ensure that particular interest groups do not dominate the authority.

11.5 Funding Arrangements

As outlined in section 9.6, there are a number of existing funding gaps for fisheries management in Western Australia. These will be applicable under either a Departmental or statutory authority model.

11.6 Accountability

Under a statutory model for fisheries, the authority would have considerable delegated powers over the management and regulation of the State's fisheries. It is therefore critical that appropriate accountability processes exist to facilitate public scrutiny of decision-making. In considering accountability processes for a fisheries statutory authority, the AFMA model is useful.

AFMA has clear accountability to the Minister and to Parliament (and therefore the community) in accordance with the provisions of the *Fisheries Administration Act 1991*. Accountability measures include:

Accountability to the Minister (and Parliament)

The Minister approves the AFMA Corporate Plan and annual Operational Plan. AFMA also submits an Annual Report to the Minister and the Parliament. The requirements for each of these documents are set out in the legislation.

The Minister must also approve Commonwealth fishery statutory management plans.

Under section 91 of the *Fisheries Administration Act 1991*, the Minister may also give directions in writing to AFMA concerning the performance of its functions and the exercise of its powers. AFMA is bound to comply with those directions and, if this does occur, the Act details a comprehensive process that both the Minister and AFMA must follow.

AFMA's performance is also subject to scrutiny by the Australian National Audit Office and can also be subject to inquiry from Parliamentary Committees. Financial Statements are audited each year by the Auditor-General.

Accountability to the Public (and Fishing Industry)

In addition to the above, AFMA is also required to provide a copy of its Annual Report to the peak body, the Australian Seafood Industry Council (ASIC) and to consult with that organisation on the Corporate Plan. The Chairman and Managing Director are also required to report on AFMA's performance to the ASIC Executive.

The legislation also requires AFMA to hold annual public meetings no more than 12 months apart where the AFMA board is present and is available to answer questions from the floor. Any person can attend and question AFMA on its activities.

Key Point

- *Specific issues for Government in the creation of a SMA include:*
 - *determining the role, function and structure of the authority;*
 - *determining the role of, and relationship with, the Minister;*
 - *legislative arrangements;*
 - *Board structure and membership;*
 - *funding arrangements; and*
 - *accountability processes.*

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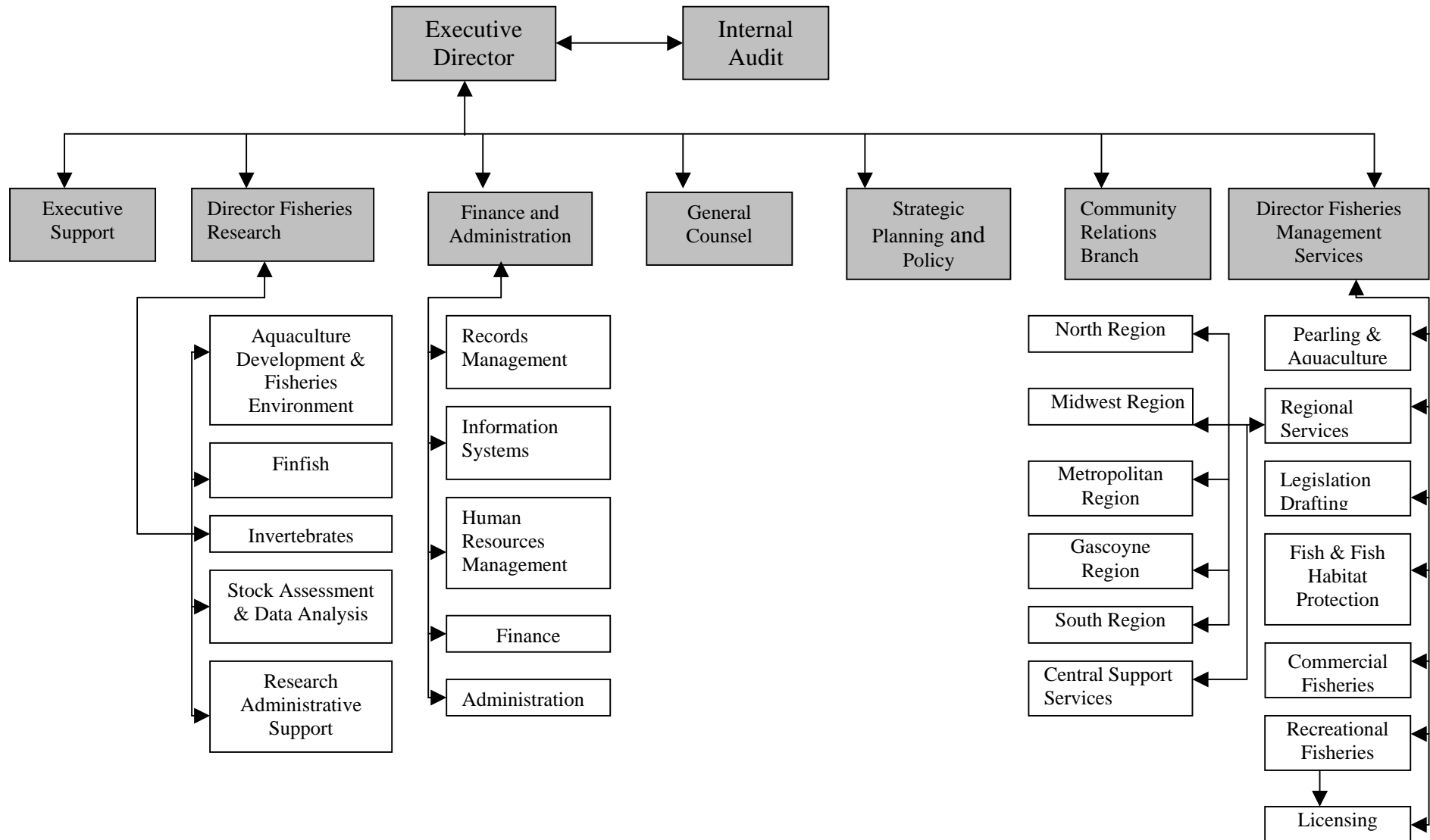
Appendix B: Estimated GVP for Major Species 2000/2001 Western Australia

Species	\$'000 (rounded)
<i>Commercial</i>	
Rock Lobster	301,000
Shark Bay Prawns	34,000
Abalone	18,600
Exmouth Gulf Prawns	10,000
Shark Bay Scallops	4,300
Pearling (<i>Pinctada maxima</i>)	150,000
<i>Aquaculture</i> ³⁷	
Yabbies	2,500
Mussels	2,300
Marron	1,200
Finfish	670

³⁷ Note beta carotene production not published given small number of producers and confidentiality issues.

Appendix C: Organisational Structure (2002)

DEPARTMENT OF FISHERIES



Appendix D: Abbreviations

ACWA	Aquaculture Council of Western Australia
AFFA	Agriculture Forestry and Fisheries Australia
AFMA	Australian Fisheries Management Authority
AFS	Australian Fisheries Service
AIMAC	Abrolhos Islands Management Advisory Committee
ANAO	Australian National Audit Office
ATSIC	Aboriginal and Torres Strait Islander Commission
EPA	Environmental Protection Authority
EPBCA	Environmental Protection and Biodiversity Conservation Act
ESD	Ecologically Sustainable Development
FAS	Fisheries Adjustment Scheme
FRDC	Fisheries Research and Development Corporation
FRMA	Fish Resources Management Act
IFM	Integrated Fisheries Management
MAC	Ministerial/Management Advisory Committee
OCS	Offshore Constitutional Settlement
QDPI	Queensland Department of Primary Industries
QFMA	Queensland Fisheries Management Authority
QFS	Queensland Fisheries Service
RFAC	Recreational Fishing Advisory Committee
SMA	Statutory Management Authority
SARDI	South Australian Research and Development Institute
UNCLOS	United Nations Convention on the Law of the Sea
WAFIC	Western Australian Fishing Industry Council

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- No. 144** The Translocation of Brown Trout (*Salmo trutta*) and Rainbow Trout (*Oncorhynchus mykiss*) into and within Western Australia. Prepared by Jaqueline Chappell, contributions from Simon Hambleton, Dr Howard Gill, Dr David Morgan and Dr Noel Morrissy. (*not published, superseded by MP 156*)
- No. 145** The Aquaculture of non-endemic species in Western Australia - Silver Perch (*Bidyanus bidyanus*). As amended October 2000. Tina Thorne. This replaces Fisheries Management Paper No. 107.
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