

Results of the review of the management arrangements and licensing framework for the aquatic tour industry in Western Australia



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Department of **Fisheries**

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1 Purpose

The purpose of this Fisheries Occasional Publication is to provide advice on the final decisions made by the Minister for Fisheries (Minister) in response to the 2012 Review of the management and licensing framework for the aquatic tour (aquatic tour) industry in Western Australia.

2 Background to the review

Western Australia's aquatic tour industry was first brought under formal management in July 2001. The arrangements introduced at this time centred on the introduction of a licensing framework to assist in managing and monitoring the activities of the aquatic tour industry. A key objective was to stop the unrestricted growth in new fishing tour operations.

Operators were originally granted licences based on meeting criteria that focused on demonstrated involvement with or investment in the fishing tour industry prior to a benchmark date of 12 September 1997. The management intention was to 'cap' the industry at 1997 levels and in effect impose a 'moratorium' for the granting of new Fishing Tour Operators Licences (FTOLs). A key issue underpinning this policy was that it recognised the cumulative impact that additional fishing tour operations could have on the sustainability of fish stocks.

The broad policy of 'capping' effort did retain some flexibility to grant new licences if it was considered to be "in the better interests of the fishery". This power to grant new "niche" licences resulted in a considerable number of licences being granted to operators who established an aquatic tour business in an area or for a type of fishing activity that was not being serviced by existing operators.

This led to a situation where the aquatic tour industry was managed by a complex combination of regulations, policy (Ministerial Policy Guideline No. 12 [MPG 12]) and over 90 licence conditions, which primarily related to new licences issued post the benchmark date. There were 39 different categories of licences which were further broken down according to the number of authorised passengers, the size of boat being operated under the licence and other matters.

The previous arrangements, while having served a useful purpose at the time, were complex and provided little scope for industry diversification or rationalisation. Therefore, consideration needed to be given to simplifying the regulatory framework.

3 Consultation

In August 2010, the then Minister approved a statewide review of the aquatic tour industry. Following the approval, discussions were held with Recfishwest and the two aquatic tour industry associations (Marine Tourism WA and the Kimberley Marine Tourism Association). These discussions focused on promoting awareness of the review process and providing the opportunity to raise issues that needed to be taken into consideration in the development of new licensing and management arrangements.

Following these discussions, in August 2012 the then Minister approved that the review be conducted in two stages. The first stage of the review aimed to simplify existing licensing arrangements and better position the aquatic tour industry to meet future challenges. A second stage due to be carried out in 2016 is to ascertain the impact of the changes from stage one to determine if more substantial changes are necessary.

To undertake stage one, Fisheries Management Paper No. 258 (FMP 258) *A Review of the Management Arrangements and Licensing Framework for the Aquatic Tour Industry in Western Australia* was released for comment in October 2012. A copy of FMP 258 was provided to Recfishwest, the Western Australian Fishing Industry Council (WAFIC), the aquatic tour industry associations, all licence holders and was available to the public on the Department's website. A summary of the recommendations of FMP 258 is at Appendix 1.

At the same time as the approval to release FMP 258, the Minister also approved an interim policy that no new aquatic tour industry licences be granted from the date of the release of FMP 258 until new licensing arrangements were finalised. This included where an existing licence had expired. This further entrenched the long-standing 'cap' on effort with a view to the number of licences decreasing over time through market forces. A letter advising of the Minister's decision was sent to all current licence holders (Appendix 2).

During the public consultation process ten submissions were received, including one each from WAFIC, Recfishwest and WA Marine Tourism. The submissions were generally supportive of recommendations. Following consideration of the submissions, the Minister made his determinations on the review in July 2013. The Minister's final decisions are at Appendix 3.

4 Policy outcomes

The policy outcomes from the first stage of the review dramatically simplified the existing licensing arrangements (Appendix 3). The policy outcomes allow existing operators new business flexibility and resource access security without posing any additional threat to the sustainability of fish stocks. Key changes to the licensing and management arrangements which have been approved by the Minister for Fisheries include:

- not issuing any new licences, including “niche” licences;
- allowing the number of licences in each zone to fall by natural attrition (noting around one third of licences are not active);
- removing all licence conditions;
- removing the requirement to hold certain categories of licence, e.g. land based fishing, eco-tourism;
- allowing the flexibility in the number of fishers an operator is licensed to carry; and
- linking licence fee to licence zone and capacity, and permitting transferability of zones between licences.

4.1 No new licences and allowing the number of licences in each zone to fall by natural attrition

When the aquatic tour industry came under formal management, aquatic tour operators were granted licences based on meeting certain criteria. The policy framework for the aquatic tour industry management arrangements aimed to ‘cap’ the industry at 1997 levels, while acknowledging that the industry could change over time. The power to grant licences was not explicitly restricted to a ‘single use’ and as a result there remained the power to grant new licences, if it is considered “in the better interests of the fishery”.

The broad policy of ‘capping’ effort at existing levels and granting new licences for ‘niche’ activities led to applications which created an inconsistency in the administration of the policy, due mainly to ‘niche’ operators then seeking to further expand their operations. An outcome of the 2010 – 2012 review has been to remove many restrictive conditions, so that existing licences within zones are now generic and can be operated anywhere in the zone. This has increased the level of flexibility for current licence holders. “Closing the door” on issuing of new niche licences ensures consistency with the policy of not issuing new licences and recognises the cumulative impact that the granting of new licences may have on the sustainability of fish stocks.

Over recent years the aquatic tour industry has struggled financially along with other tourism sectors. It is also evident that there are a number of licences that are not presently being operated (Figure 1). This supports the conclusion that there is presently no shortage of licences, but instead that the demand for charter services is not sufficient to sustain all the current operations. Demand for fishing tour services is expected to be variable, so there will be ‘down’ and ‘busy’ times for operators.

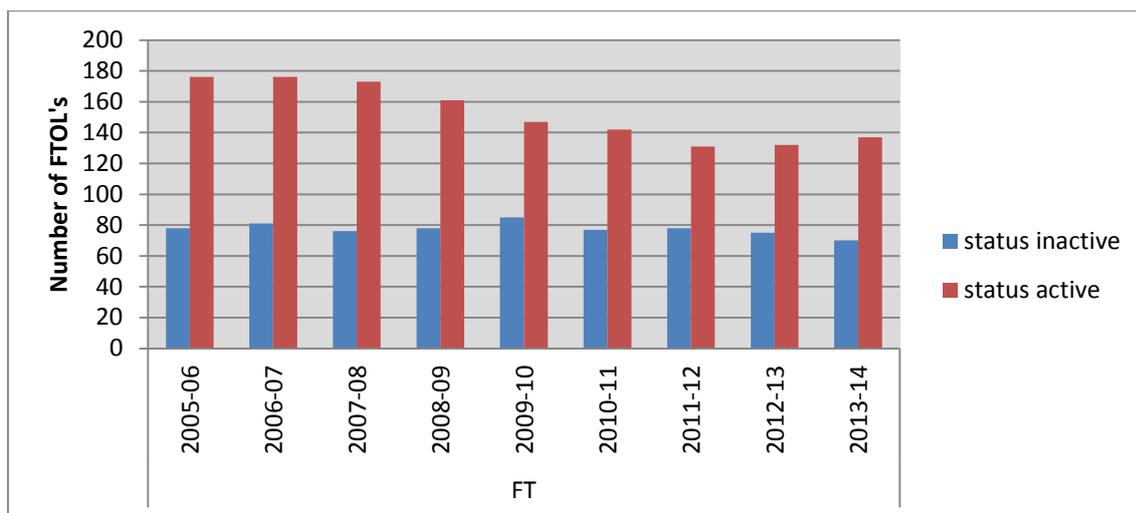


Figure 1. Number of active and inactive FTOLs

The current ‘latent effort’ (inactive licences) within the fishing tour industry is not likely to represent a sustainability risk to any fish stock at the present time as the vast majority of Western Australia’s fish stocks are considered to be sustainably managed. Given the history of capping of effort and the current level of latent effort, there would now need to be exceptional circumstances for the granting of any new licence.

The objects of the *Fish Resources Management Act 1994* (FRMA) are:

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

S2 (c) and (d) of the FRMA states this will be achieved by:

- (c) enabling the management of fishing, aquaculture, tourism that is reliant on fishing, aquatic eco-tourism and associated non-extractive activities that are reliant on fish and the aquatic environment;
- (e) achieving the optimum economic, social and other benefits from the use of fish resources.

In managing fishing tour activities, there is a requirement to balance the needs of the consumer (tourist/passenger), the needs of the tour operator (business certainty and viability) and the sustainability of the fish stocks. In order to provide more business certainty for fishing tour operators to achieve optimum economic and social benefits, the Minister approved a policy that no expired licences will be considered for re-issue and no new Fishing Tour Operators Licences and Restricted Fishing Tour Operators Licences will be considered. This policy effectively stops the granting of replacement licences and new ‘niche’ licences.

The new policy allows fishing tour operators more business certainty to plan their business needs more effectively as the maximum number of operators in each zone over a licensing year is known. It also ensures that latent effort/excess service capacity in the industry is absorbed over time as the latent effort is purchased and activated by new entrants. It was

expected that the number of operators in each zone of the fishery would reduce over time through natural attrition if inactive operators decide not to renew their licences; this has proved to be the case (Tables 1 and 2).

Table 1. Number of FTOLs as at 3 September 2012 and 28 April 2015

	South Coast	West Coast	Gascoyne	Pilbara/ Kimberley	Total*
September 2012	16	99	71	97	283 (211*)
April 2015	11	98	65	96	270 (206*)

*The total number of licences in each zone does not equate to the sum of the total number of licences as licences can be authorized to operate in more than one zone.

Table 2. Number of Restricted Fishing Tour Operator Licences as at 3 September 2012 and 28 April 2015

	South Coast	West Coast	Gascoyne	Pilbara/ Kimberley	Total*
September 2012	2	15	10	16	43 (26*)
April 2015	2	14	10	15	41 (24*)

*The total number of licences in each zone does not equate to the sum of the total number of licences as licences can be authorized to operate in more than one zone.

The aquatic tour industry has effectively become a “limited entry” fishery, consistent with the policy adopted for other managed fisheries.

4.2 Removing all licence conditions

At the time of the review over 90 of the 282 FTOLs had licence conditions, primarily related to spatial (e.g. restricted to operating in a certain area) or permitted activity restrictions (e.g. catch and release fishing or fly fishing only). Some of these conditions were put onto licences when the aquatic tour industry was initially managed, while others were the result of ‘niche’ licence applications.

The effectiveness of licence conditions in managing the overall impact of the aquatic tour industry was questionable and placed unnecessary restriction on the capacity of licence holders to restructure their operations to meet changing tourism demands. Removing conditions also enables the Department to more effectively analyse the activities of the aquatic tour industry through logbook information.

All licence conditions have been removed.

4.3 Removing the requirement to hold certain types of licence

Almost all eco-tourism operations (i.e. non-fishing) are located in marine parks where there is already a requirement to be licensed under Department of Parks and Wildlife legislation. With these operators having minimal environmental impact, and having no impact on fish

stocks, it was decided that there was no need to be licensed by two government departments and the requirement to hold an aquatic eco-tourism licence with the Department of Fisheries was removed.

The requirement to hold ‘land based’ aquatic tour licences with the Department of Fisheries was also removed as evaluation of catch and effort data from these tours over a period of 10 years indicated they had minimal impact on fish stocks (i.e. catches were low) and tended to target less vulnerable species e.g. Black Bream and Barramundi. It also meant that indigenous communities or individuals undertaking cultural tours such as fishing for mud crabs, would not require a licence. These activities are still subject to general recreational fishing rules such as bag, size and possession limits.

4.4 Flexibility in the number of fishers an operator is licensed to carry and linking licence fees to licence zone and capacity, and permitting transferability of zones between licences

The new fee structure provides a level of equity between smaller and larger operations and is consistent with the introduction of access for commercial fishing and aquaculture in that the fee is charged for access to a public resource. The new fee structure includes a fee based on licensed passenger capacity, and recognises that aquatic tour industry clients are not required to hold a recreational fishing from boat licence. The number of passengers a boat is licensed to carry may be varied on application to the Department of Fisheries by the operator to provide for more flexible business arrangements.

4.5 Professional Standards

The review retained the “fit and proper” person requirements previously in place, providing for a sound level of professional standards in the aquatic tour industry to foster public confidence and demand for services. This will in turn support viability of fishing tour businesses.

5 Policy implementation

The experience of the past 15 years has established an identified group of tour operators (licensees). The needs of the industry, including certainty as to the number of licences, some flexibility on passenger numbers and a sound level of professional standards have been considered in the review.

A letter was sent to Recfishwest, the Western Australian Fishing Industry Council (WAFIC), the aquatic tour industry associations and all licence holders advising them of the Minister's final decisions (Appendix 2).

Implementation of the Ministerial decisions is providing a stable and secure framework within which the fishing tour industry can further develop in providing services that are consistent with the long-term sustainability of aquatic resources.

The objective of management is to have sustainable fish stocks and a healthy and professional industry, made up of valuable and viable businesses. Current fishing restrictions, including bag, size and possession limits, and ongoing monitoring of indicator species, mean that sustainability of fish stocks is not presently a concern.

In the market place, supply/demand factors are fundamental. Given the current level of latent effort, market forces can be assumed to operate to meet the needs of the consumer.

There has been an extensive period of time for applying for a new licence, and that opportunity is now closed. Anyone now wishing to enter the fishing tour industry has the opportunity to negotiate the transfer of an existing licence. There are currently a number of inactive licences, suggesting that there are already too many licences in the market for the level of charter services being demanded.

It is difficult to see any basis on which a new additional licence could be granted. In the event that there was ever a case for increasing the number of licences issues, the Minister could give consideration to that at that future time, including whether any new licence should be made available through a tender process.

6 Appendices

6.1 Appendix 1: Summary of proposals

Proposal 1

To reduce latent effort/excess service capacity in the charter sector, no expired licences will be re-issued and no new Fishing Tour Operators Licences and Restricted Fishing Tour Operators Licences will be considered.

Proposal 2

That Ministerial Policy Guideline 12 “Assessment of Applications for the Granting, Renewal or Transfer of Fishing Tour Operators Licences and Aquatic Eco-tourism Operators Licences” be cancelled.

Proposal 3

That the benchmark date for access to the fishery of 12 September 1997 be retained, but the interim benchmark date of 31 December 2008 with respect to assessment of activity in the fishing tour operator sector be cancelled.

Proposal 4

That consideration be given to deregulating the requirement to hold an Aquatic Eco-tourism Operators Licence to undertake non-extractive aquatic eco-tours, and any specific issues associated with non-extractive aquatic tour activities requiring management be addressed by Regulation under the Fish Resources Management Act, 1994.

Proposal 5

That Fishing Tour Operators Licences and Restricted Fishing Tour Operators Licences should not be required for craft that are not fitted with a means of mechanical propulsion, such as canoes.

Proposal 6

That consideration be given to deregulating the requirement to hold a Category 2 ‘land based’ Fishing Tour Operators Licences and Restricted Fishing Tour Operators Licences to undertake land based fishing tours.

Proposal 7

That consideration be given to deregulating the requirement for details of vehicle and aircraft to be specified on Fishing Tour Operators Licences and Restricted Fishing Tour Operators Licences, but that any specific issues associated with non-extractive aquatic tour activities requiring management be addressed by Regulation under the *Fish Resources Management Act 1994*.

Proposal 8

That all existing conditions on Fishing Tour Operators Licences and Restricted Fishing Tour Operators Licences be removed, noting that the Chief Executive Officer retains the capacity

to impose conditions on licences should they be required to address specific issues in the future.

Proposal 9

That a Fishing Tour Operators Licence or Restricted Fishing Tour Operators Licence be restricted to operating:

- up to one ‘principal vessel’ (length of 7.5 metres or more) and associated tender vessels (less than 7.5 metres in length) which must operate as part of a single tour operation and remain within five nautical miles of the principal vessel; or
- from a land based camp, all multiple small vessels less than 7.5 metres in length, should operate within five nautical miles of every vessel in the fishing unit.

Proposal 10

That existing Category 1 ‘large boat’ Fishing Tour Operators Licences currently authorised to operate two ‘principal vessels’ (length of 7.5 metres or more) be transitioned into two separate licences for each boat by July 2013.

Proposal 11

That the transferring of management zones between licences be permitted and licences that cease to have a management zone attached be automatically cancelled.

Proposal 12

That the licence fee structure for a Fishing Tour Operators Licence consist of:

- a fee for access to each management zone listed on a licence, and
- a fee per unit of passenger capacity listed on a licence (tiered around units of five passengers, up to a maximum of 25 and over passengers).

Proposal 13

That a licence fee of \$500 per zone be charged for a Restricted Fishing Tour Operators Licence.

6.2 Appendix 2

Ref: 32/09 Vol 2

Dear Licence Holder

REVIEW OUTCOME OF THE MANAGEMENT ARRANGEMENTS AND LICENSING FRAMEWORK FOR THE CHARTER INDUSTRY IN WESTERN AUSTRALIA

In October 2012 the Department of Fisheries (Department) released a discussion paper (Fisheries Management Paper No. 258) to all aquatic tour licence holders and relevant stakeholders for comment. The discussion paper set out 13 proposals relating to a new licensing and management framework for the charter industry in Western Australia. The comment period closed on 31 December 2012.

After taking into consideration the issues raised during the consultation, the Minister for Fisheries approved the 13 proposals outlined in the discussion paper. This approval forms part of the first, administrative stage, of a two part review process of the charter sector. This first stage focuses on simplifying the complex licensing arrangements and better position the charter sector to meet future challenges. The second stage of the review will be carried out in 2016 and will ascertain the impact of the changes from stage one.

The first stage includes the cancellation of Ministerial Policy Guideline No. 12, the ceasing of the issue of new licences and the reissue of expired licences. These changes are effective immediately.

Over the next six months the Department will be working on the removal of restrictive licence conditions. If you hold a licence that is currently endorsed with a condition, you should expect a letter in the near future regarding the removal of the licence condition(s).

It is anticipated that the remainder of the changes will be implemented in line with the commencement of the 2014/15 licensing period (1 July 2014). These changes include the deregulation of the requirement to hold a land based licence or an Aquatic Eco Tourism Operator's Licence.

The enclosed table outlines the implementation timeframes for the approved changes.

If you have any queries, please contact Michelle Cridland, Fisheries Management Officer on 9482 7359 or email michelle.cridland@fish.wa.gov.au. I am available on Monday, Tuesday or Wednesday.

Yours sincerely



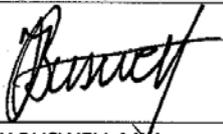
Michelle Cridland
Fisheries Management Officer
for DIRECTOR GENERAL

7 August 2013

6.3 Appendix 3

DETERMINATION BY THE MINISTER FOR FISHERIES ON THE MANAGEMENT AND LICENSING ARRANGEMENTS FOR THE AQUATIC TOUR INDUSTRY	
The Department of Fisheries Recommendations	Minister for Fisheries' position
Recommendation 1: No expired licences will be re-issued and no new Fishing Tour Operator's Licences and Restricted Fishing Tour Operator's Licences will be considered.	Agree
Recommendation 2: Ministerial Policy Guideline No. 12 is cancelled.	Agree
Recommendation 3: The benchmark date of 12 September 1997 for access to the charter fishery is retained with the benchmark date of 31 December 2008 cancelled.	Agree. The 2008 benchmark date was originally driven by sustainability concerns with demersal scalefish in the West Coast bio-region. These concerns have been addressed through other fisheries management measures. Since this time the number of charter licences has fallen in the West Coast. With no new licences being issued it is likely these numbers will continue to fall by natural attrition. The 2008 benchmark date is no longer necessary.
Recommendation 4: The licence category Aquatic Eco - Tourism is abolished.	Agree. The majority of aquatic eco-tourism operations occur within Marine Parks where there is already a requirement to be licensed under the Department of Environment and Conservation legislation. There is no need for operators to be licensed by two government departments when there are minimal impacts.
Recommendation 5: There is no requirement to hold a Fishing Tour Operator's Licence or Restricted Fishing Tour Operator's Licence for craft that is not fitted with means of mechanical propulsion.	Agree
Recommendation 6: The 'land based' licence category for Fishing Tour Operators and Restricted Fishing Tour Operators is abolished.	Agree. The impact that 'land based' tour operators have on fish stocks is minimal as the fish stocks generally targeted are less vulnerable species. The deregulation of the 'land based' licence category also enables indigenous communities or individuals undertaking cultural tours without holding a licence. Other Regulations such as bag and possession limits continue to apply that deal with ensuring that there are sustainable catches of fish taken recreationally.
Recommendation 7: There is no requirement to hold a Fishing Tour Operator's Licence or Restricted Fishing Tour Operator's Licence for use of a vehicle or aircraft.	Agree

<p>Recommendation 8: All existing licence conditions on Fishing Tour Operator's Licences and Restricted Fishing Tour Operator's Licences are removed.</p>	<p>Agree. A majority of the existing conditions were put on licences when the aquatic tour industry was initially managed and the remaining were a result of niche licence applications. Licence conditions restrict business flexibility by placing restriction on the capacity of operators being able to restructure operations to meet changing tourism demands. Other Regulations such as bag and possession limits continue to apply that deal with ensuring that there are sustainable catches of fish taken recreationally.</p>
<p>Recommendation 9: All Fishing Tour Operator's Licences and Restricted Fishing Tour Operator's Licences be restricted to operating one 'principal vessel' with a length of 7.5 metres or greater; or from a land based camp, all multiple vessels less than 7.5m in length, should operate within five nautical miles of every vessel in the fishing unit.</p>	<p>Agree</p>
<p>Recommendation 10: All existing Fishing Tour Operator's Licences currently authorised to operate with two 'principal vessels' be transitioned into two separate licences for each vessel.</p>	<p>Agree</p>
<p>Recommendation 11: The transferring of management zones between licences is permitted and those licences that do not have a management zone attached be cancelled.</p>	<p>Agree</p>
<p>Recommendation 12: The fee structure for Fishing Tour Operator's Licences consist of a fee for access to each management zone listed on the licence, and a fee per unit of passenger capacity (tiered around units of five passengers).</p>	<p>Agree. The fee structure provides a level of equity between smaller and larger operations and is consistent with the introduction of access fees for commercial fishing and aquaculture in that the fee charged for access to a public resource. The new fee structure includes a fee based on licensed passenger capacity and aquatic tour industry clients are not required to hold a recreational fishing from boat licence.</p>
<p>Recommendation 13: A fee of \$500 per management zone is charged for a Restricted Fishing Tour Operators Licence.</p>	<p>Agree</p>



TROY BUSWELL MLA
MINISTER FOR FISHERIES

26/07/2013

Date

