

**SOUTH COAST INDEPENDENT ACCESS PANEL REPORT ON
THE SOUTH COAST COMMERCIAL FISH TRAP, G-NET AND
OPEN-ACCESS LINE, NET AND SQUID JIG FISHERIES**

Draft

**Report to the Western Australian
Department of Fisheries**

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EXECUTIVE SUMMARY

This report has been produced by the South Coast Independent Access Panel (IAP) to recommend criteria for access to two proposed managed fisheries in the South Coast Bioregion. The two proposed managed fisheries will replace the current open access arrangements that allow many fish stocks on the South Coast to be available for take by all commercial Fishing Boat Licence (FBL) holders.

This process is the last link in a chain of processes that were proposed in Fisheries Management Paper No. 134: *Management Directions for WA's Coastal Commercial Finfish Resources* that was released in 2000. A similar process has already taken place in the Kimberley/Pilbara, Gascoyne, and West Coast Bioregions.

In November 1997, a first Investment Warning was issued to all Western Australian commercial fishers warning that if management changes were to occur in the wetline fishery, then fishing history after 3 November 1997 may not be taken into account.

From 2006 onwards, there has been much discussion regarding proposals to establish limited entry arrangements for South Coast open access fisheries, with the main focus being on the line fishing component.

In December 2013, another Investment Warning was issued advising that the Minister for Fisheries had approved a review of open access fisheries in the South Coast Bioregion. The Investment Warning listed the species and fishing methods to be reviewed and advised that any investment in open access fishing activities on the South Coast after 9 December 2013 may not be taken into account in determining access and allocation. The Department of Fisheries also commenced a stock assessment for the South Coast demersal scalefish resource in 2013.

In September 2015 Fisheries Management Paper No.270: *The South Coast commercial fish trap, G-net and open-access line and net scalefish fisheries and squid jig fishery review* (FMP270) was released. It proposed two new managed fisheries:

- South Coast line, fish trap and squid jig fishery.
- South Coast nearshore net fishery.

Access to these two proposed managed fisheries is the subject of this report.

In March 2016, the IAP was established. In the summary, the IAP's Terms of Reference (ToRs) advised that the IAP's purpose is to provide advice to the Director General of the Department of Fisheries on matters of access related to the implementation of Management Plans for the South Coast commercial herring G-net, fish trap and open access line, net and squid jig fisheries and if considered appropriate matters that may be relevant to advice on how any future allocation of entitlement might be given effect. The ToRs also define the scope, required activities, minimum required outputs and other operational matters applicable to the IAP. The IAP ToRs can be found in Attachment 1.

Following the outcomes of consultation on the management proposals in FMP270 and subsequent to the appointment of the IAP, the Minister for Fisheries provided in-principle approval for the development of the two new management plans.

In providing advice to the Director General of the Department of Fisheries the IAP has taken account of, amongst other things, the following;

- consistency with relevant legislative objectives,
- fairness and equity,
- objectives of the Western Australian Fish Resources Management Act 1994 (FRMA),
- existing open access licensing arrangements and previous management decisions and guidance, particularly those detailed in FMP270,
- the catch history of FBLs in the fishery,

- stakeholders' views via public meetings and written submissions,
- previous access considerations in WA and Australia, and
- principles and guidelines in support of fisheries inter-sectoral access and allocation decisions.

The IAP has given full regard to circumstances of the fishery, including but not limited to:

- no identified or foreseen sustainability issues,
- the constraints to production created by weather and remoteness (markets, distance to fishing grounds),
- the need for diversity of operations,
- access to, and demand from local markets, and
- the need for simple, cost effective and efficient management arrangements.

In making its recommendations on access, the IAP sought to maintain the relatively small scale of the fishery:

- operating at, or near, historical catch levels, subject to the development of new grounds,
- accessed by FBLs with a recognised catch history in the South Coast Bioregion,
- with fishers holding, or able to access, a number of licences in recognition of the multi-gear, multi species nature of the fishery and need for viable year-round fishing operations,
- having sufficient flexibility for development of unexploited areas of the fishery,
- managed by limited entry under the two proposed management plans, using uniform gear restrictions across each license class, and
- supplying high quality seafood with a focus on local markets and tourism.

In addition to the recommendations on access required under the IAP ToRs, the IAP has made a number of observations and suggestions for the consideration of fisheries managers, which are delineated in bold text.

The IAP wishes to acknowledge the assistance provided by all persons and organisations consulted.

Exceptional/Special Circumstances

The IAP was notified of several instances of personal circumstances that, in the view of the individuals concerned, may have a real bearing on the access process as it relates to those individuals. In particular, there are a number of FBL holders whose ability to “live where they live” is subject to the condition of holding a FBL and/or being actively engaged in commercial fishing. Where these and other circumstances are outside the purview of the IAP ToRs, and in accordance with best practice in other access processes, the IAP has highlighted the relevant issues to the Department for consideration when the Minister for Fisheries makes final access decisions.

IAP access recommendations

For the reasons outlined in the body of the report, the IAP recommends that:

Access Recommendation 1: Access to the fish trap licence class in the Oceanic Zone of the South Coast line, fish trap and squid jig fishery be based on a FBL that is currently endorsed with FBL Condition 74.

Access Recommendation 2: Access to the fish trap licence class in the King George Sound Zone of the South Coast line, fish trap and squid jig fishery be based on a FBL that is currently endorsed with FBL Condition 192.

Access Recommendation 3: Access to the line licence class of the South Coast line, fish trap and squid jig fishery be determined based on a minimum catch of 10,000kg of scalefish taken by open access line fishing methods (handline, dropline and trolling methods) reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

Access Recommendation 4: Access to the squid jig licence class of the South Coast line, fish trap and squid jig fishery be determined based on a minimum catch of 100kg of squid and cuttlefish taken by open access squid jig methods reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

Access Recommendation 5: Access to the G-net licence class in the South Coast nearshore net fishery be based on a FBL that is currently endorsed with FBL Condition 42.

Access Recommendation 6: Access to the haulnet and beach seine licence class of the South Coast nearshore net fishery be determined based on a minimum catch of 2000kg of scalefish taken by open access haulnet and beach seine methods reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

Access Recommendation 7: Access to the gillnet licence class of the South Coast nearshore net fishery be determined based on a minimum catch of 1000kg of scalefish taken by open access gillnet methods (gillnets with a mesh size less than 114mm) reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

Access Recommendation 8 (Alternative to Access Recommendations 6 & 7 - if the Minister decides that haulnet, beach seine and gillnets (with a mesh size less than 114mm) should be combined under the one licence class: Access to the nearshore net licence class of the South Coast nearshore net fishery be determined based on a minimum catch of 2000kg of scalefish taken by open access net methods (haulnet, beach seine and gillnets [with a mesh size less than 114mm]) reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

1. Introduction

The South Coast fisheries under consideration for formal management, are classed as 'open access' i.e. any individual with a Commercial Fishing Licence (CFL) and an unrestricted FBL can fish for scalefish and squid using hook and line, squid jig, beach seine and haul nets of any size or demersal gillnets with a mesh size of less than 114mm in the oceanic waters off the South Coast. There are approximately 1275 FBLs in WA however, a significant proportion of these FBLs are restricted to existing managed fisheries. The South Coast open access fisheries are the last of the major 'open access' commercial fisheries available to a FBL holder in WA.

Current arrangements cannot ensure the sustainability of the South Coast open access fisheries, or the security and viability of those fishers working in them. There are also a number of FBL condition fish trap fisheries, that while operating under limited entry are operating under somewhat dated legislation and weak property rights. The intention of the Department of Fisheries (the Department) is to move the South Coast FBL Condition fisheries and open access fisheries into more formal management, as has occurred over time with other WA commercial fisheries. The intention is to create two managed fisheries under separate management plans (a line, fish trap and squid jig fishery and a nearshore net fishery) and provide access for a limited number of Managed Fishing Licenses (MFLs), thus improving long term management outcomes and establishing access rights.

Experience in Commonwealth fisheries management and some States is that commercial fishing licence holders will have greater confidence in access (and allocation) processes developed through an independent (of Government) process. Such processes include:

- extensive consultation;
- an independent assessment of who should obtain access;
- taking into account fishery and individual licensees circumstances; and
- recommendations for the basis for access.

This independent process allows advice on access to be one step removed from the regulator and independent of fishers that may be impacted by access decisions and who have a vested interest. It is important that all interested fishers have an opportunity to present their views. To address these requirements, the Department now uses independent panels other than in cases where industry displays unanimous support for an access or allocation decision. However, this usually occurs in fisheries where access has been determined and is subsequently going through an allocation process. The IAP was created to recommend access criteria for South Coast open access fish resources.

In most cases, access is a first step towards a managed fishery. In a second step, the access right is strengthened further through an allocation process, as occurred for instance, in Gascoyne Demersal Scalefish Managed fishery. For the South Coast fisheries of interest, FMP270 indicates an intention by the Department to 'implement a simple and cost effective limited entry management framework'. This infers that there will not be an immediate move towards allocation, given the small-scale nature of these fisheries, the status of the resource, weather conditions and market limitations. Accordingly, the IAP has taken the view that for the foreseeable future, access and allocation (via gear restrictions applying equally to all licence holders) is essentially one and the same.

Independent panels only provide advice. The Minister for Fisheries is ultimately the decision maker for determining the final access formulae and associated matters. Examples exist where governments have not accepted some or all of the advice of independent panels.

Limiting access is not just about stock conservation, which is largely a biological and ecological management issue. The access process is about determining which operators qualify for access (harvesting rights) to a fishery. The outcome provides a strengthened access right for a certain number of fishers to access the resource for commercial purposes on behalf of the community. Fisheries with well-defined access rights tend to have a better track record of biological and economic outcomes.

In accordance with the ToRs, the IAP has considered appropriate material, received briefings from the Department of Fisheries and consulted with holders of fishing authorisations and other stakeholders and organisations with relevant knowledge and experience. Consultation has taken place primarily through advertised port meetings, but also via written submissions. The draft report will also be released for public consultation, with the outcomes of this consultation to inform the IAP's final report and access recommendations.

2. Independent Access Panel process

2.1 Membership

The IAP was established in March 2016 to provide advice to the Director General of the Department on matters of access related to the implementation of Management Plans for the South Coast commercial herring G-net, fish trap and open-access line, net and squid jig fisheries.

The persons appointed as members of the IAP are Ian Cartwright, Graeme Stewart and Ian Taylor.

Ian Cartwright is independent Chair of a wide range of fisheries committees and boards, including scallop, abalone and rock lobster Advisory Committees in NSW, Victoria and Tasmania. He holds a Master Class V (fishing) and a MED3. Ian is also a Commissioner of the Australian Fisheries Management Authority and a former board member of FRDC. He has a B.Sc (hons) in and an M.Sc in fisheries science/economics.

Graeme Stewart is a consultant to the fishing industry having previously been a Board member and Executive Officer of WAFIC, a member of the Western Australian Fisheries Voluntary Adjustment Scheme Ministerial Advisory Committee, a member of many Commonwealth and State fisheries Ministerial Advisory Committees, a Director (and Chairman) of the Australian Council of Prawn Fisheries Ltd and having held senior executive positions in major Australian fishing companies. Consultancy clients have included the Commonwealth and State governments, companies, commercial fishing associations and individuals in Australia and abroad. He has a Degree of Bachelor of Commerce (UWA) and is a retired CPA.

Ian Taylor previously worked as an economist at the Western Australian Treasury before being elected MLA for Kalgoorlie in 1981. He served as Chair of the Public Accounts Committee, a Minister, Deputy Premier and Leader of the Opposition before retiring from his Parliamentary career in 1996. Ian has since worked as a self-employed consultant to the mining industry, health care, Local Government, land development (principally with the Department of Housing) and the fishing industry amongst others from 1996 to 2016. In the fishing industry, Ian served as inaugural Chair of the Western Rock Lobster Council, Chair of the Aquaculture Council and was Chair of the Abalone Industry Management Advisory Committee before he was appointed Executive Officer of the Abalone Industry Association in 1998 (retiring in 2013). Ian was also a Director of the Australian Abalone Council.

None of the members of the IAP is associated with any governmental or private interest in the South Coast commercial herring G-net, fish trap and open-access line, net and squid jig fisheries.

2.2 Process

The overall IAP process was as follows:

1. The Department of Fisheries provided background papers and a technical brief that included details on:
 - existing management arrangements (including available data);
 - existing fishing rights in the scope of the fishery;

- past correspondence, industry meeting decisions, published management guidelines and other written communication for the fishery;
 - written submissions to FMP270;
 - advice/input from relevant research, management, legal, economic and statistical experts on matters relating to access; and
 - previous access and allocation processes in several Western Australian and interstate fisheries.
2. The IAP wrote to all WA Fishing Boat Licence holders, requesting attendance at South Coast port meetings and input through written submissions. The Committee received and considered this input.
 3. The IAP consulted directly with holders of fishing rights, other stakeholders and other person/s or organisations with appropriate knowledge or experience identified as being directly affected by the access process.
 4. The IAP identified and sourced additional necessary data and analysis to support the access recommendations.
 5. The initial draft report of the IAP, including recommendations, will be submitted to the Department of Fisheries and be released for public consultation.
 6. Feedback received from consultation will be considered and, where deemed appropriate by the IAP, the initial draft will be amended to take account of the views expressed by stakeholders.

2.3 Port meetings

Concerns were raised by industry over the late notice of port meetings with some fishers receiving notification of the meeting on 11th or 14th March 2016 despite the advice being posted on 3rd March. Nevertheless, all meetings were well attended.

In accordance with written notification to fishing concession holders (Appendix 1) and other interested persons, port meetings were held in relation to the IAP in:

Augusta	14 March 2016
Albany	15-16 March 2016
Esperance	17 March 2016
Perth	18 March 2016

All persons present at the port meetings, which were open to key stakeholders (i.e. WAFIC, fishing associations and commercial fishers), were given the opportunity to participate in discussions and to make oral submissions.

The IAP also offered the opportunity for individual FBL holders to meet privately with the IAP immediately after the public meetings to discuss any matters in confidence of a financial or personal nature. There were several private meetings requested and held at each port meeting.

A summary of issues discussed at each public meeting was prepared and is attached to this report (Appendix 2).

2.4 Written submissions

The IAP was provided with hard copies of all 41 submissions that the Department received during public consultation on the management proposals in FMP270.

A copy of the written notification from the IAP to all eligible licence holders and interested persons that was dispatched on the 3rd March 2016 can be found at Appendix 3.

The IAP received a total of 20 submissions in response to their invitation to provide written submissions and a summary of these is provided at Appendix 4. These submissions generally reiterated the points made by licence holders at the public meetings.

2.5 Guiding Principles

As noted above, the IAP has taken account of previous access and allocation considerations in Australia and WA. These include:

1. **Fairness and equity** - access to be provided in a way that distributes the benefits of use fairly amongst the licence holders and minimises any differential economic impacts such as wealth redistribution.
2. **Optimum utilisation** - access to be provided that achieves the best use of the resource for the community at large including consumers, not just best for a particular interest or geographical group.
3. **Certainty for users** - access should be provided in a way that recognises the needs of users of the resource, particularly those who rely on it for their livelihood.
4. **Opportunity to be heard** - a person with an interest in the fishery has the opportunity to participate in developing the management regime for that fishery through a transparent process.
5. **Rights of existing concession holders to be recognised** - the process of granting access must have due regard to the historical access to the fishery.
6. **Best available information** - any access recommendation should take account of all relevant information.
7. **Integrity of fisheries management arrangements** - access decisions should be consistent with legislative requirements and other fisheries management objectives, including resource sustainability.

The advice has also sought to be consistent with relevant legislative objectives and the objectives of the *Fish Resources Management Act 1994*, especially Part 6, Division 3, as it relates to consultation.

In addition, the IAP considered stakeholders' views via written submissions in response to FMP270, port meetings, which included a number of one-on-one sessions with IAP members, and written submissions in response to the IAP request for industry views.

Determining access for a fishery does not usually start with a blank sheet. In the majority of cases there is a history of government and fisheries management decisions taken over time in response to a variety of pressures that must be taken into account. The decisions and their impact on the management of the fishery are described in the next section of this report.

Taking the above into account and being considerate of the terms of reference, the IAP has focused on access arrangements that are essentially based on historical rather than current fishing activity.

Written and verbal submissions to the IAP, along with the contributions made at the port meetings brought home to the IAP the reality that wherever lines are drawn there would be some FBLs that do not qualify under the proposed access regime.

The IAP is particularly concerned that current active and serious commercial FBL holders may, because of the historical nature of any access proposal, find they are on the wrong side of the line.

It is for this reason that later on in the report the IAP recommends the establishment of a clear and independent appeals procedure.

The IAP is strongly of the view that for this access regime to work on a fair and equitable manner such an appeal mechanism should be considered.

3. Fisheries Management on the South Coast

3.1 Evolution of commercial fisheries management in WA

Before September 1983, there was no constraint on the issue of FBLs in WA. Any person submitting a competent application was granted a new FBL. It gave the holder of a FBL an authorisation to use a boat for commercial fishing purposes. Provided that person also held a Commercial Fishing Licence (CFL), the FBL could be used in fishing operations to take any fish¹ for commercial sale, unless existing legislation prevents the licence holder from undertaking that activity (e.g. operating within a managed fishery where operating in a specific area, using a specific gear type and/or taking a specific fish species is already restricted).

In 1983, a freeze on all new applications to enter the fishing industry via a new FBL was introduced in response to increasing pressure and latent effort, particularly in inshore fisheries. A limited entry fisheries policy (the *Ministerial Policy Guidelines for Entry into the Western Australian Fishing Fleet*) was adopted in 1984, which resulted in a permanent cap on the total number of registered FBLs in the WA fishing industry. Thus from 1984 onwards, people wishing to enter into the commercial fishing industry could only do so by purchasing an existing FBL.

At that time there were few managed fisheries, and fishers who did not have access to the managed fisheries had a range of other fishing opportunities. Since then, the majority of WA's commercial fisheries have progressively been brought under management and there are now over 40 managed or interim managed fisheries. Participants in these fisheries are allocated exclusive access via Managed Fishery Licences (MFLs) or Interim Managed Fishery Permits to catch certain species or use certain fishing gear within the area of the fishery and this process reduces or removes opportunities for FBL holders who do not qualify for access to managed fisheries.

In March 2000, the Department released a series of discussion papers proposing a shift towards a more integrated approach to fisheries management. One of the papers contained proposals relevant to the current access process. Fisheries Management Paper No. 134: *Management Directions for WA's Coastal Commercial Finfish Resources* stated that:

- The State's coastal fish resources should be managed on the basis of four major marine regions – the Kimberley/Pilbara, Gascoyne, West Coast and South Coast.
- Black Point (east of Cape Leeuwin, 115°30') be the boundary of the southern biogeographical region and that there be separate commercial licences for the West and South Coast regions.
- Finfish stocks can no longer automatically be available for take by all commercial FBL holders and that a dedicated small-scale commercial fishery for finfish should be established, with clear entry criteria, and an appropriate limit on the number of operators in each bio-region.

In 2002, the Minister released a media statement formally announcing plans to review the management of the 'wetline' fisheries with the establishment of a Commercial Access Panel (CAP) and a Management Planning Panel (MPP). It is the outcomes of the CAP and subsequent decisions of the Minister on access and allocation that are of some relevance to the South Coast. It should be noted that the CAP provided advice on both access and allocation.

For the West Coast and Gascoyne Demersal Scalefish fisheries, the CAP recommended access be granted based on catch history of demersal scalefish in both the pre-benchmark

¹ "Fish" includes all species taken commercially by fishers including crustaceans, molluscs, squid and octopus as well as scalefish.

(1 July 1993 to 31 October 1997) and post benchmark (1 July 1999 to 30 June 2003) periods.

The CAP's recommendation that the generic access criteria used for the West Coast and Gascoyne fisheries be introduced for the South Coast and Pilbara wetline fisheries was approved by the Minister. However, after consultation it was deemed inappropriate (to implement a S.43 Order²) for the South Coast fishery, leading to the current review and the engagement of the IAP to make recommendations regarding criteria for granting ongoing access to these fisheries.

Details of the key decisions and actions for the South Coast following the CAP report are listed below:

2006/07

The Minister approved the implementation of a S.43 Order on the South Coast using the same criteria as the West Coast and Gascoyne. Note that a S.43 Order was implemented for the Pilbara line fishery based on the same access criteria.

2008

Following Ministerial approval, the Department commenced consultation with Western Australian Fishing Industry Council (WAFIC) and industry regarding the implementation of a S.43 Order using the same access criteria for the South Coast. The Department met with WAFIC and South Coast industry Representatives. South Coast industry representatives proposed the implementation of a S.43 Order where all South Coast active fishers prior to 1 January 2008 (commencement date of the West Coast Demersal Scalefish Fishery Management Plan) be given access to the South Coast line fishery.

2010

Following consultation with industry on the implementation of a S.43 Order, the Department considered that the criteria granting access to the West Coast was too stringent for the South Coast (9-13 FBLs would have been granted access) and the criteria proposed by industry was too loose (more than 400 FBLs would have been granted access). The implementation of a S.43 Order was not supported by WAFIC due to the weak access rights and low consultation requirements associated with the implementation of S.43 Orders. WAFIC supported the introduction of a management plan.

The Department then decided that a formal review process was needed to consider access arrangements and to implement more formal management arrangements (i.e. management plans) for the South Coast open-access line fishery. However, due to other priorities and resource requirements, the Department did not pursue a formal review and subsequent development of a management plan at the time.

2012

The South Coast Licensed Fisherman's Association (SCLFA) and WAFIC requested support from the Department and the Minister to implement formal management arrangements for the South Coast open access line and net fisheries through a management plan.

2013

In November 2013, the Minister approved the current review of South Coast fish trap, G-net and open access line, net and squid jig fisheries (the Review) and the engagement of an Independent Access Panel to consider and make recommendations to the Director General on matters relating to access to these fisheries under formal management.

² Section 43 of the Fish Resources Management Act 1994 allows the Minister, by order published in the *Gazette*, to prohibit persons or any specified class of persons from engaging in any fishing activity of a specified class.

In December 2013, the Director General issued an investment warning for the fisheries under review on the South Coast.

2015

In September 2015, the Department released FMP270 which included the Department's proposed management arrangements for future management of these South Coast fisheries, for public consultation.

2016

The IAP was established in January 2016 and met for the first time in early March 2016. On 16 March 2016 the Minister for Fisheries provided in-principle approval for the development of two management plans for the

- South Coast Line, Fish Trap and Squid Jig Fishery; and
- South Coast Nearshore Net Fishery.

3.2 The South Coast fisheries and current licensing arrangements

The current limits to the South Coast fisheries under review extend from Black Point (115°30'E) to the South Australian border (129°E) and coincide with the South Coast Bioregion.

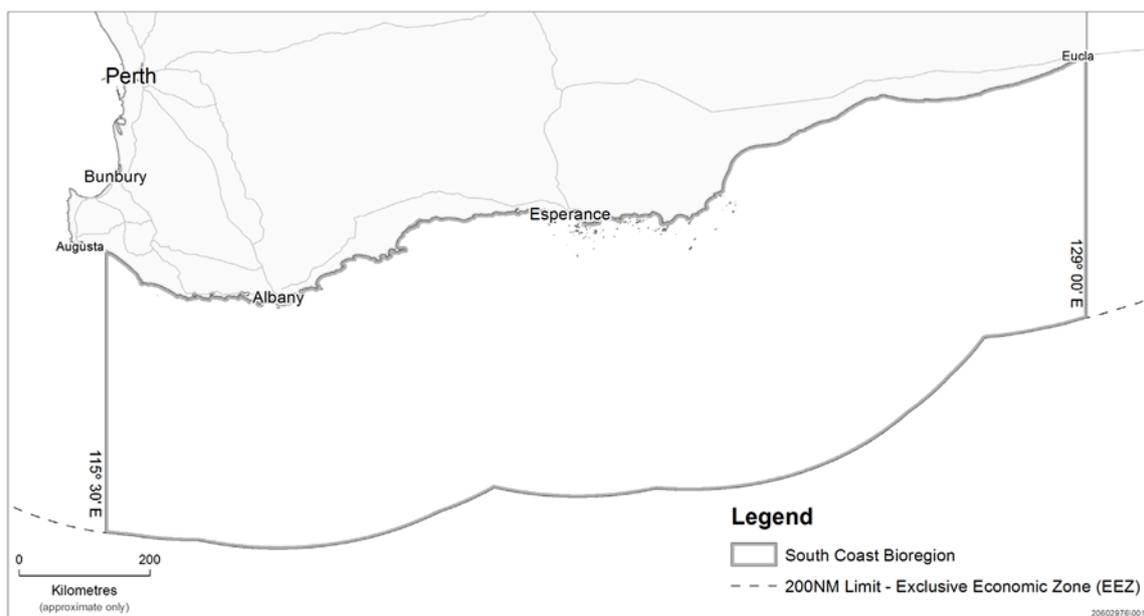


Figure 1. Waters of the South Coast Bioregion of Western Australia.

Open-access line fishing on the South Coast includes boat fishing by hook and line for scalefish (e.g. by handlining, droplining or trolling) or fishing for squid using squid jigs. The fishery is focused in the west of the proposed management area. Over 76% of all open access line catch (using mostly handline and drop line methods) recorded between 2000 and 2013 was caught between the western boundary of the proposed fishery and Bremer Bay, with catches, excluding squid, ranging between 100 and 168 tons between 2000 and 2013). A total of 164 FBLs recorded open-access line catch in the same period, ranging between 48 to 73 FBLs in any one year, with the majority recording catches of less than two tonnes in any year between 2000 and 2013.

The South Coast FBL Condition fisheries are subject to a general prohibition. The conditions permit 11 FBLs to use oceanic fish traps to target finfish (Condition 74) and five FBLs to use fish traps to take leather jackets in the waters of King George Sound (Condition 192). Condition 74 is transferrable, whereas Condition 192 is non-transferrable and may be

amended by the Executive Director. The purpose of the review is to transition the access to the South Coast condition fisheries to new management plans.

Prior to this review, the Department has been working to transition these activities to more legislatively robust arrangements.

Open access squid jig catch between 2000 and 2013 ranged from 3.9 to 20.9 tonnes, with a strong trend of increasing catches. Between 2012 and 2013 the catch almost doubled from around 10 to 20 tonnes. Catch has been reported by 51 FBLs between 2000 and 2013 and of these between 10 to 22 FBLs reported open access squid jig catch in any one year.

Open-access net fishing on the South Coast includes haul netting (including beach seining) and the use of demersal gillnets with a mesh size less than 114mm. There was also a fishery that allowed the take of herring by G-nets on the South Coast (Condition 42). The herring G-net fishery was closed on 1 March 2015.

Over 69% of all open-access net catches (mainly beach seine and gillnets) between 2000 and 2013 were caught in the waters around Albany and in King George Sound. A total of 74 FBLs recorded open-access net catch on the South Coast between 2000 and 2013, with 21 to 33 FBLs recording open access net catch in any one year. There is high variability in annual open access net catch recorded by individual FBLs on the South Coast, with the majority recording catches of less than two tonnes in any year between 2000 and 2013.

3.3 Proposed managed fisheries

FMP270 was released for public comment in September 2015. FMP270 proposed that two fisheries be established:

- **The South Coast Line, Fish Trap and Squid Jig Fishery**, incorporating the current South Coast open-access line fishery (handline, dropline and trolling methods), South Coast open-access squid jig fishery, the South Coast oceanic fish trap fishery (FBL Condition 74) and the King George Sound fish trap fishery (FBL Condition 192); and
- **The South Coast Nearshore Net Fishery**, incorporating the herring G-net (FBL Condition 42) and open-access net fisheries (haul net, beach seine and gillnet [mesh size <114mm] fishing methods).

The Minister has since provided in-principle approval for the development of these two fisheries as managed fisheries.

3.4 Status of stocks

The clear indication from the majority of industry submissions was that, in the view of the fishers, South Coast scalefish and squid stocks were in good condition however, there may be some localised depletions around population centres. Under current levels of catch and effort, industry submissions considered that South Coast stocks were unlikely to be at risk from fishing in the foreseeable future and that seasonal abundance and catch rates were more related to environmentally-driven change than fishing pressure.

The Department assesses stocks on an ongoing and annual basis. The most recent stock assessment for South Coast demersal scalefish will incorporate more refined assessment techniques, including age-based assessments and estimates of fishing mortality.

This stock assessment was in the final stages of preparation at the time of the IAP Review and is expected to be published as a Fisheries Research Report prior to or during the consultation phase of the IAP's draft report.

The assessment will present formal stock status advice (in a weight of evidence format) and the estimate of risk to sustainability for four demersal scalefish indicator species in the South Coast Bioregion (Bight redfish, pink snapper, blue morwong and western blue groper). The Level 3 assessments in the report are the first higher-level assessments undertaken for

these species/stocks in this Bioregion.

The draft report provided to the IAP provides an assessment of the status of each indicator species as follows:

- **Bight redfish – Medium Risk:** while it is possible there is some localised depletion, it is unlikely the entire stock is below the threshold level.
- **(Pink) Snapper – Medium Risk:** unlikely the stock is below the threshold level.
- **Blue morwong – Medium Risk:** unlikely the stock is below the threshold level.
- **Western blue groper – Low Risk:** remote likelihood the stock is below the threshold level.

Based on current and historic levels of capture, the stock levels of all four species in the South Coast Bioregion are considered by the assessment to unlikely to have been, or to be within the next five years, depleted to unacceptable levels (i.e. below the threshold), assuming the current levels of catch and effort remain in line with those recently experienced.

The information in the lines of evidence used in the risk analysis however suggested that if the catch levels of Bight redfish and pink snapper increased beyond current (historical) levels it would increase the risk to unacceptable levels. Blue morwong and particularly western blue groper have a greater capacity for some catch increases.

The conclusions of the assessment infer that the management arrangements to be implemented for the South Coast and particularly those managing the more vulnerable stocks (i.e. Bight redfish and pink snapper) will be sufficiently effective to prevent increased effort (i.e. through activation of latent effort) and catch on more vulnerable stocks.

4. Policy and legal considerations

4.1 Definitions

"Access" is the legally based right to take fish from the common property resource for particular purposes. The Minister has approved the development of management plans for these fisheries and access rights will be in the form of a managed fishery licence.

4.2 Legislation/Policy

The IAP has taken the view that their advice must have a statutory basis and be consistent with relevant legislative objectives. The IAP has taken account of the objectives of the FRMA, especially Division 3 of that Act as it relates to consultation.

In providing advice, the IAP considers that the method proposed to determine access must have primary regard to whether that access will contribute to the pursuit of the objectives of the FRMA. In particular, the IAP has been mindful of those sections of the legislation relating to the sharing and allocation of fish resources. Reference to allocation occurs under Object 2(f) of the Act, where the objective is "*to enable the allocation of fish resources between the users of those resources*".

In addition, the IAP notes that one of the objects of the FRMA is to "*achieve the optimum economic, social and other benefits from the use of fish resources*, while another objective requires'... *fostering the sustainable development of commercial and recreational fishing and aquaculture*". Determining access and subsequent management of the South Coast fisheries is a particular challenge due to the nature of the fisheries described elsewhere in this report. It is clear to the IAP that the South Coast fisheries under consideration are not akin to the West Coast Rock Lobster Managed Fishery and that it may not be appropriate to apply the usual method of unitisation and thereby invoke the relatively complex and expensive management framework required to support such a management approach. On the other

hand, it will be necessary to ensure that catch and effort are managed effectively to avoid overfishing.

4.3 Ministerial Announcements and Decisions

The IAP considered all Ministerial announcements and decisions made relating to the South Coast and broader WA Government fisheries policy statements.

4.4 Basis for access in other WA managed fisheries

Table 1 below provides a sample of previous decisions on access in other managed fisheries in WA, noting that the information has been summarised for brevity.

Table 1: Initial criteria for access in some other WA wetline/gillnet fisheries

Fishery	Initial criteria for access	Reference
Gascoyne Demersal Scalefish	At 31 October 2010, is holder of a Shark Bay Snapper Licence; or i) at 31 October 2010 held a FBL; and ii) an average annual catch of 2 tonnes in both qualifying periods (1 November 1997- 30 June 2003 and 1 July 1991 to 31 October 1997).	Gascoyne Demersal Scalefish Managed Fishery Management Plan 2010
West Coast Demersal Scalefish	On 1 November 2007 was a holder of a FBL; and an average annual catch of 2 tonnes in respect of both qualifying periods (1 November 1997- 30 June 2003 <u>and</u> 1 July 1991 to 31 October 1997).	West Coast Demersal Scalefish (Interim) Management Plan 2007
West Coast Demersal gill net and demersal longline	Holder of a FBL; and 1.5 tonnes of fish taken by demersal gillnet or demersal longline in the period 1 July 1991 to 30 June 1992; and a minimum of 1.0 tonnes of fish by either demersal gillnet or demersal longline in the period 1 July 1992 and ending 30 June 1993.	West Coast Demersal Gillnet and Demersal Longline Interim Managed Fishery Management Plan 1997

4.5 Benchmark dates

The management of fisheries through setting a limit on the number of licences has been used extensively in Australia as a fundamental form of fisheries management and a first step towards more sophisticated catch and effort restrictions.

To limit the number of licences, there has to be some way of deciding who gets into a limited entry fishery (i.e. who is issued with one of the limited number of licences) and who does not gain entry. In the past what are termed 'pioneer rights' of licence holders have been used as the basis for continued access to a fishery when a fishery has been brought under management. These have been applied in a number of ways, one of the most simple (and common) being to grant access to any individual who held a licence to fish at the time of the declaring of the fishery as being limited.

In WA, access to limited entry fisheries has traditionally been granted on the basis of catch history in a particular fishery. In WA, catch history is recorded against the FBL. As a result 'pioneer rights' are attached to the FBL under which the history has been accumulated.

Because FBLs are transferable, the 'pioneer rights' and that history have always been taken to rest with the current holder of the relevant FBL.

Benchmark dates are components of policy statements that take effect in law when they are incorporated into and implemented through a management plan, or interim management plan. The announcement of a benchmark date via an investment warning is intended to allow industry to carry on its activities while making business decisions in the full knowledge that changes to management arrangements are in prospect. Two such benchmark dates for the fisheries under review were set in 1997 and 2013 via investment warnings (see Appendix 5 and Appendix 6).

5. Key issues considered by the IAP

This section looks at the key issues considered by the IAP, including those that were raised at the public meetings, in written submissions, in telephone discussions and during face-to-face meetings both before and after the release of Draft 1 of this access report.

The issues have been grouped below and summarised, with IAP comments included.

5.1 Access criteria options

Past access (and allocation) processes in WA (and other Australian jurisdictions) have generally considered three key elements in the development access formulae, including:

- a. **Existing rights** – based on a premise that all FBL holders have an equal entitlement to obtain access.
- b. **Administrative entitlements** – such as those associated with holding a MFL in a related fishery and outcomes from administrative decisions by government.
- c. **Catch history and benchmark dates** – usually based on qualifying periods, such as those described in the West Coast and Gascoyne Demersal Scalefish Fisheries Management Plans.

a. Existing Rights

5.1.1 Existing Rights in the Fishery – open access

Unrestricted FBL holders currently have an equal ability to access the open access fisheries under review and it could be argued that there should be a fair expectation that they all get equal rights of access. However, such an approach would clearly have a differential impact across operators, varying with their level of activity.

More importantly, all unrestricted FBLs currently have the ability to operate in these fisheries and the possession of a FBL simply allows the holder to fish and does not convey any form of 'right' or entitlement to catch anything. An FBL is a licence to use a boat for commercial fishing, an opportunity that has steadily declined as fisheries have transitioned to formal management (management plans). An operator is required to hold an FBL to use a vessel in a managed fishery.

The concern that some fishers have that they may 'lose' their existing right to fish in open access fisheries has no validity on the basis that the ability to operate is not explicitly conferred by any current licence or authorisation. As such, there are no existing rights specific to the South Coast open access fisheries. Consequently, the IAP notes simply holding an FBL does not give a fisher the right to continue to fish in the open access fisheries once they come under formal management.

5.1.2 Existing Rights in the Fishery – Condition and exemption

On the South Coast there are other fisheries (Oceanic Fish Trap and King George Fish Trap) that have effectively been closed or limited by the granting of licenses with conditions (74 and 192 respectively) and an exemption. Unlike the open access fisheries described

above, these conditions and the exemption do explicitly provide a right to operate. It is the view of the IAP that access to these fisheries should be limited to the existing FBL Condition holders.

b. Administrative Entitlements

Some fishers consider that entitlements (and activity) in other managed fisheries on the South Coast should be used as a criterion for access to the proposed South Coast line, fish trap and squid jig or nearshore net fisheries. Such a criterion was applied in the Gascoyne Demersal Scalefish Managed Fishery, where initial access was granted to holders of a Shark Bay Snapper Licence (as well as those with a qualifying catch history). In that case, there was considered to be a strong correlation between licence holders and their activity in the Shark Bay Snapper and the Gascoyne Scalefish fisheries.

A variation on this theme was suggested by some fishers based in Esperance who considered that the IAP should consider;

- giving some weight to FBL owners that are based in the east of the fishery; and
- giving some weight to those FBL holders that have some activity in other fisheries around Esperance. For these individuals, it seemed inequitable that if fishers from the west gained access through catch history and those living in the east did not, then the opportunity to expand operations in the future would be denied. It was further noted that this could have implications for the supply of local fish.

However, based on previous access decisions and the principles for the grant of access in the South Coast fisheries noted in Section 7 of this report:

The IAP considers that catch activity in other fisheries on the South Coast should not determine access to the fisheries under consideration by the IAP.

c. Fishing history and benchmark dates

It has become well established in fisheries in WA and other Australian jurisdictions that the level of fishing history, and in particular, **catch history**, can be used to indicate the degree to which a licence holder has developed an economic dependency on a particular type of fishing. In the case of the South Coast fisheries under consideration, the IAP notes that very few fishers are fully dependent on one gear type and need, and use, access to a number of gear types, access to other managed fisheries and in some cases other forms of income generation, in order to remain economically viable. It has been put to the IAP that for some fishing businesses, reliance on a particular gear type/species is not adequately expressed through catch history (e.g. if an operator generates 15% of their income from a given fishing method, removal of access to this method may make them uneconomic and cause them to go out of business).

In WA the practice of catch history 'following' the FBL creates some confusion and apparent inequity in the minds of some fishers. Comments at the port meetings confirmed this. The effect on the status of fishermen **holding** an FBL with catch history at the time access is decided may not necessarily take account of the **past personal activity** in the fishery by that fisher, particularly if he or she has traded or leased vessels/licences (i.e. FBLs) in the fishery. In other words, a fisher with a recently purchased FBL with strong and diverse catch records may well fare better under an access decision than a fisher who has worked in the fishery for a long time but is in possession of an FBL that does not have a significant catch history.

Other measures of the operator's economic position may include the value of licence (the FBL), vessel, gear and any associated onshore facilities relating to the fisheries in question. The difficulty with considering these measures is that these factors are often part of a fishing package and items such as an FBL or boat for example, are required to operate commercially, irrespective of whether the operator has an interest in these fisheries.

Some consideration was given to using activity (e.g. days fishing) as a measure, but this approach was discarded owing to the way fishing activity is recorded on monthly returns, which frequently aggregate effort and catch from different gear types. It is also possible for a fisher to work two open access fishing gears in one day.

On balance, in considering previous decisions on access and noting concern with respect to the quality of logbook data, the IAP suggests that **catch history be used as a proxy for activity/participation to determine access.**

With respect to **benchmark dates** used for the consideration of catch history it has been claimed in a number of industry submissions that some South Coast FBLs with pre-1997 catch history were purchased at a premium price in response to the 1997 investment warning. In the opinion of the IAP that those fishers have a reasonable expectation that such an investment would be recognised in any access criteria. This principle was recognised in the processes to decide access to both the West Coast and Gascoyne wetline fisheries.

Consequently, the IAP recommendations in Section 7 of this report recognise the 1997 investment warning in the access criteria for the South Coast Fisheries.

The time difference between the investment warning and subsequent approval of a management plan, which may take several years, is problematic for the access process and for affected fishers' business planning. The issue of subsequent investment warnings, as in the case of the fisheries under review and other WA fisheries, adds to complexity. The Committee has been asked to take account of the 2013 investment warning as well as the earlier warning. This access process was established shortly after the second investment warning and the IAP considers that the warning, and the wording contained therein, has particular meaning: '*... that any investment in open access fisheries activities may not be taken in to account in determining access and allocation*'. The IAP has therefore recommended that any activity after December 2013 should not be taken into account in the grant of access to these fisheries. However, some currently active fishers have expressed the view that they were unaware of such conditions and have, in good faith, invested in the fishery post the investment warning. The IAP has recommended the creation of an appeal mechanism, which holders of FBLs with post December 2013 catch history may choose to utilise.

The viability of communities and possible social impacts of management was also a key consideration. The IAP was conscious of attempting to minimise the potential for management that results in a redistribution of wealth among operators. On balance, the use of catch history as a proxy for activity appears to be a relatively simple and less controversial means of determining access, although the level of catch and the time-span used to determine eligibility are, of themselves, the most challenging aspect of the access process.

As noted above, a number of fishers are permitted to take scalefish by means of fish traps and herring G-nets on the South Coast. Concern was expressed that these entitlements, which are given effect through licence conditions, have little security and that the current status quo with respect to access may be changed as the fishery moves to formal management.

As outlined below and in Section 7 of this report, the IAP has recommended that access currently provided under licence conditions be carried over and strengthened though the access arrangements proposed.

Fish traps

The IAP received no advice, biological or economic, that the current arrangements should not be continued. Subject to the introduction of the proposed controls on trap numbers to be used by each entitlement holder, there appears to be no little or no concern about over capacity, or gear conflict. That said, the catch data shows considerable variation with over 70% of total fish trap catch between 2000 and 2013 being caught in four years (2000-2003 and 2011).

The IAP is of the view that since *de facto* access rights have already been granted in the Oceanic Fish Trap fishery to FBL Condition 74 holders, and for the King George Sound Fish Trap to Condition 192 holders, that access should be limited to holders of those FBLs.

Herring G-net fishery

The development of formal management arrangements for this fishery will be subject to the outcomes of the herring G-net fishery voluntary fisheries adjustment scheme and a review of herring management at the end of 2016.

The IAP is of the view that since *de facto* access rights have already been granted in this fishery to FBL Condition 42 holders, that access should be limited to holders of those FBLs.

5.2 Boundary/zonation issues

There were a number of submissions and comments at port meetings in relation to the extent of coastline covered by the fishery and the need for additional spatial management.

5.2.1 Western boundary

FMP 270 recommends that the boundary between the West Coast and South Coast fisheries for the purpose of access should remain at Black Point.

Concern was expressed by some fishers that the (Bioregional) boundary at Black Point is not appropriate and that a boundary at Cape Leeuwin is more appropriate. Some South Coast fishers considered that establishing the boundary at Black Point caused a shift in historical access rights (a transfer of wealth) from those fishers that fish the South Coast and had history in the area between Cape Leeuwin and Black Point to those that predominantly fished west of Cape Leeuwin.

Fishers also voiced their concerns about the lack of safe unloading and mooring places on the South Coast. The all-weather safe harbour at Augusta, completed after the creation of the West Coast managed fisheries, provides a safe haven in a long stretch of unforgiving coastline.

Whilst noting the safety concerns, the IAP is also aware that Black Point is the south eastern boundary of the West Coast Bioregion managed fisheries and it has been in place for 20 years. The rationale of the Department of Fisheries for its placement is clear; bioregional differentiation. In addition, any movement of the line would change current management arrangements for the West Coast which would have implications for management arrangements the West Coast fishery, which have been established under an interim management plan.

After considering the matters above, the IAP is of the view that the western boundary of the fishery should remain at Black Point.

5.2.2 Longitudinal boundary

There was some support of a longitudinal boundary to differentiate between the areas to the east of the fishery and the western end, with the western zone extending from Black Point to some point beyond Albany. A zonal boundary at 120°E longitude near Hopetoun was suggested. The waters surrounding Albany is where the bulk of the catch of South Coast wetline and gillnet catch is taken. Most supporters of such an approach suggested that different criteria for access could apply to the two zones. Rationale for such a line was based on:

- The need to develop squid and other fisheries in the east of the fishery if 'standard' catch history is applied. E.g. there will be an equity issue if access to squid is provided to Albany fishers but those who live in the east and wish to develop fisheries in the east are denied access.

- FBLs with any catch history in this 'zone' should be given access to all methods to retain viability and promote development in what some say is a 'frontier fishery'.
- Spreading effort and catch across the South Coast and reflecting the differences in physical characteristics and markets between east and west.
- Preventing fishers/MFL holders from accessing an area (east of the proposed boundary) where they have no history.

There was some opposition to a longitudinal boundary on the basis that:

- Fishers to the east would be denied access to the west of the South Coast.
- Determining access using different criteria would be problematic and controversial.
- Policing the line would be problematic for management requiring additional compliance etc., which may trigger a requirement for Vessel Monitoring System, with a concomitant cost burden.

The IAP considers that on balance, there should be no longitudinal boundary for the South Coast fishery.

5.2.3 Zones around population centres

A number of submissions made reference to the local depletion of some species around population centres. This observation is not unexpected given the concentration of catch and effort around these areas. The IAP considers that some spatial management in the form of additional effort limitation is likely to be necessary.

The IAP notes that forthcoming management plans will need to consider the further limitation of effort, including through gear restrictions and spatial and temporal closures, around population centres and sheltered waters, as envisaged in FMP 270.

5.3 Latent effort

It is clear that there is latent effort in the fishery, given that between 2000 and 2013 there were 187 different FBLs operating in the South Coast open access net and line (including squid jig) fisheries. Most of these (around 70% per annum) produced minimal catch (0-2 tonnes). As observed in FMP270, if most or all of the 187 FBLs are granted access the potential for effort to increase and impact currently (marginally) viable fishers may be significant.

The findings of the recent stock assessment (see Section 1.3 above) also indicate that there is a need to limit the activation of latent effort, particularly in the line fishery.

The bulk of industry opinion was that weather conditions, limited markets and the need to fish across multiple gear methods and species counted strongly against activating latent effort. In industry's view, the greater risk was over-precautionary restrictions on catch/effort and the loss of fish production and livelihoods in coastal communities. There were some alternative views, raising concern about the activation of latent effort and suggesting that access should be related more heavily to catch history in order to ensure that license numbers were limited to more 'realistic' (historical) levels.

5.4 Catch verification

A number of operators noted some concern over the use of catch records, believing that some operators may have over reported catches since 1997 in anticipation that catch history would be taken into account in any access and allocation process on the South Coast. The IAP is also aware that WAFIC has raised the same issue with the Department. A number of submissions to the IAP suggested that additional 'proof' of involvement in gear types being considered for access should be required to verify catch return information, such as receipts from fish receivers or tax documents.

The IAP notes that a validation process occurred in 2001 to provide the opportunity for fishers to correct any errors in their reported catch registered against their FBL in the Department's catch history database. The Department has indicated it will not run a similar validation process in the future because:

- all catch returns go through a validation process upon submission to the Department; and
- catch returns are a statutory requirement under Regulation 64 of the Fish Resources Management Regulations 1995 (FRMR) and any entry or statement that is false or misleading in a material particular in a record kept, or a return submitted, (i.e. catch returns) under Regulation 64 of the FRMR carries severe penalties.

The Department has advised that it undertakes regular compliance activities to ensure that the appropriate records are being held (i.e. catch records, sales receipts, etc.) and accurate statutory returns are being submitted to the Department (i.e. catch returns, processor returns, etc.) in accordance with Regulation 64 of the FRMR.

5.5 Appeals procedure

A number of submissions (both oral and written) raised the need for an appropriate appeals mechanism for current FBL holders who may not be eligible for a licence under the proposed access criteria. Any access criteria cannot anticipate every contingency and previous experiences would show that people miss out for a variety of reasons some of which are not evidently of their own making. There were many submissions indicating that there should be some simple mechanism where unusual circumstances can be heard.

An appeal to the State Administrative Tribunal (SAT) is beyond the means of many people. Previous history suggests to the IAP that the SAT cannot take special circumstances into account. The SAT process is restricted and limited to considering administrative decisions. SAT cannot consider matters beyond the administration of law, rules and regulations. The same would apply to appeals to the Department as it is bound by Legislation.

Most appeals would therefore end up with the Minister for Fisheries. The Minister would refer the matter to the Department for advice.

A possible simple and inexpensive mechanism to hear circumstances not anticipated by the access criteria would be for the Minister to appoint a 'one off' Independent Ombudsman who would consider any cases and make a non-binding recommendation to the Minister. The cases that are envisaged are situations where it is clear that a fisher would have normally met the access criteria, but for an unusual circumstance.

The Independent Ombudsman would preferably receive the appeal in writing and ensure that there is a high level of procedural fairness in considering the matter prior to making a recommendation to the Minister.

The IAP suggests that the Minister consider the appointment of an Independent Ombudsman to consider special circumstances that deny access to the South Coast fisheries and to make non-binding recommendations to the Minister.

5.6 Catch history of dinghies and the 5.5m rule

Many South Coast fisheries are remote and require boats that can be trailered to a location and launched off a beach or into a shallow estuary – often by one person. Consequently, some boats are less than 5.5 metres overall length, of relatively light construction and limited in terms of the sea conditions in which they can operate.

The FRMA and *Fish Resources Management Regulations 1995* (and previous fisheries legislation) require a boat to have a (Western Australian) Certificate of Survey before it can be allocated a FBL. However:

- Before the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* came into force in 2014, commercial vessels in WA were surveyed by the WA

Department of Transport (DoT). Boats less than 5.5 metres overall length (OAL) were Survey Exempt and they were limited to operating within 5nm of the shore or a safe anchorage.

- To overcome the impasse of fisheries legislation requiring a Certificate of Survey that could not be issued by the DoT for boats less than 5.5m OAL, the Department of Fisheries introduced what was commonly known as a 'dinghy' licence whereby boats smaller than 5.5 metres overall length were permitted to fish as a sub-licence of an existing FBL. Department of Fisheries regulations restricted replacement of these boats to boats that were also less than 5.5m (OAL). Given the vessel specialisation necessary to operate in multiple fisheries on the South Coast, it is common for more than one dinghy licence to be held an operator. The dinghies are identified by an alphabetic symbol (A, B, C and so on) added to the primary Licenced Fishing Boat (LFB) number identifying symbol.

Operators of these small boats have submitted to the IAP that the FBL's catch history of boats less than 5.5m OAL has been unfairly limited by the 5 nautical mile operational area restriction imposed by safety agencies. They also want to continue to have the option of operation up to 5 nautical miles from shore or a safe anchorage. It is assumed that small boat operators will only be able to continue to fish out to five nautical miles with handlines, noting that the 'five nautical mile rule' is a restriction imposed by safety agencies and is not a Department of Fisheries regulation.

Surveyed boats between 5.5m OAL and less than 6.5m OAL were previously restricted by the WA Department of Transport to operating not more than 15nm from shore or a safe anchorage so a similar argument could be made for that class of boat.

The Marine Safety (Domestic Commercial Vessel) National Law Act 2012 exempts vessels less than 7.5 metres overall length from survey - other than in exceptional circumstances. The Department of Fisheries has adapted to the changes introduced by the Marine Safety (Domestic Commercial Vessel) National Law 2012 and boat replacements are now considered on a case by case basis.

The standard catch logbooks do not contemplate the existence of an FBL sub-licence. Consequently, there have been inconsistencies in the way that catch has been reported, as presented in the example below. The majority of fishers supported the position that catch should be aggregated on to the primary vessel FBL. Submissions received have supported the continued use of a range of vessels under a given MFL to cater to different fishing operations.

To provide additional clarity around this issue, a hypothetical example of a 'boat licence package' is provided in Table 2 below.

Table 2: Example fishing boat license package A200

Boat type	Fishing purpose	FBL No.	LFB No.
Primary vessel	Utility – purse seine, estuarine, open access line fishing etc.	FBL1000	LFB A200
Dinghy 1	Purse Seine dinghy (tied to FBL1000/LFB A200 in terms of operation and transfer)	FBL1001	LFB A200A
Dinghy 2	Utility	FBL2000	LFB A200B
Dinghy 3	Utility	FBL3000	LFB A200C

5.6.1 Sale/transfer of dinghies and associated entitlements

In terms of dinghy and primary licences, each boat needs a FBL to be used for the purposes of commercial fishing. Once attached to a FBL the vessel becomes a LFB. The LFB number is essentially a “licence plate” for a vessel. Typically a ‘package’ of vessels comprises a number of vessels and FBLs (and their associated LFBs) that are linked (see example in Table 2). It is possible that the holder of a ‘package’ of vessels can transfer (i.e. sell) a FBL along with the associated vessel (LFB) to another commercial fisher.

In some cases the FBLs (and associated LFBs) in a package are tied to the primary FBL as this was primarily set up when a fishing activity requires more than one vessel during fishing operations. In these circumstances the ‘tied FBL’ can only be transferred as part of the package.

Examples of two different circumstances are provided here:

- Using the package in Table 2 above as an example of a **‘tied’ package**, this fisher (Fisher 1) holds licence package A200 whereby he uses four FBLs/vessels for different fishing operations on the South Coast. Fisher 1 wishes to sell his SC Purse Seine MFL and its associated (tied) FBL to Fisher 2. As Fisher 1 uses the primary FBL for purse seine (FBL1000/LFB A200) and a purse seine dinghy (FBL1001/LFB A200A) to help shoot the net, and the two FBLs are tied, the two FBLs must be transferred together as a package along with Fisher 1’s SC Purse Seine MFL i.e. they cannot be ‘split’.
- Some dinghy FBLs are not tied and as such are **separate tradable entities**. These FBLs (e.g. FBL2000, FBL3000, in the above example package) can be separately transferred, subject to the FBLs not having restrictive conditions (i.e. not transferable). Dinghy FBLs issued after the 5 September 1983 (date of the freeze on new entrants) are generally considered not transferrable in their own right. Fisher 1 in the above example wishes to sell his SC Estuarine MFL and FBL2000 (which has a boat attached to it that is suitable for estuarine fishing) to Fisher 3. As FBL2000 is ‘unrestricted’ and a separate tradable authorisation, Fisher 1 is able to trade FBL2000 and its associated vessel (LFB A200B) along with Fisher 1’s SC Estuarine MFL to Fisher 3.

There are dinghy licenses that are recorded on the register in a different name to the name recorded for the primary FBL. The following section examines the different catch recording scenarios that exist.

5.6.2 Treatment of FBL catch history of dinghies

If a dinghy with a separate, unrestricted FBL has been traded, then that FBL is no longer part of the ‘package’ and will be treated separately. However, the catch history assigned to a FBL is dependent on how that catch was recorded when that FBL was part of a ‘package’ and after it was traded.

Option 1 – Catch for each FBL recorded on the same CAES return

Again, using Table 2, if the catches for all FBLs were reported on the one Catch and Effort Statistics System (CAES) return each month then the catch would automatically be attributed to the primary FBL (FBL1000/LFBA200). This is because the catch data on the CAES returns can only be recorded against one FBL in the Department’s catch record database and there is no way for the Department’s data entry operators to differentiate which boats were used to catch what fish on the CAES returns.

If Fisher 1 (holder of the licence package A200 in the above example) elects to sell his primary vessel (FBL1000/LFBA200) to Fisher 2, the catch history of all vessels in package A200 will be transferred along with the primary vessel (FBL1000/LFBA200) to Fisher 2. This is due to all catches for each FBL in the package being recorded on the same monthly CAES returns and subsequently being attributed to the primary vessel (FBL1000/LFBA200).

Also note that in this scenario the Purse Seine Dinghy (FBL1001/LFBA200A) that has a linked FBL to the primary vessel (FBL1000/LFBA200) would be transferred with the primary vessel (FBL1000/LFBA200) and any catch recorded on the Purse Seine Dinghy (FBL1001/LFBA200A) would automatically be recorded against the primary FBL (FBL1000/LFBA200) as it can only be used in conjunction with that FBL.

However, if Fisher 1 (holder of licence package) elects to sell an unrestricted utility vessel (FBL2000/LFBA200B) to Fisher 2, the catch history of FBL2000/LFBA200B will remain with Fisher 1. This is due to all catches for each FBL in the package being recorded on the same monthly CAES returns and subsequently being attributed to the primary vessel (FBL1000/LFBA200).

Option 2 – Catch for each FBL recorded on separate CAES returns

If the catches for all 4 FBLs were reported on separate CAES returns each month, then the catch would automatically be attributed to that FBL. This is because the catch data on the CAES return can only be recorded against one FBL in the Department's catch database. Therefore these 4 FBLs have a separate catch history within the licence package.

For example (using Table 2):

- If Fisher 1 (holder of the licence package) elects to sell his primary vessel (FBL1000/LFBA200) to Fisher 2, the catch history of FBL1000/LFBA200 will be transferred along with the primary vessel (FBL1000/LFBA200) to Fisher 2. The catch history recorded against the other utility vessels (FBL2000/LFBA200B and FBL3000/LFBA200C) within the package would remain against those particular FBLs. Note that in this scenario the Purse Seine Dinghy (FBL1001/LFBA200A) that has a linked FBL to the primary vessel (FBL1000/LFBA200) would be transferred with the primary vessel (FBL1000/LFBA200) and any catch recorded on the Purse Seine Dinghy (FBL1001/LFBA200A) would automatically be recorded against the primary FBL (FBL1000/LFBA200) as it is only able to be used in conjunction with that FBL.
- However if Fisher 1 (holder of the licence package) elects to sell an unrestricted utility vessel (i.e. FBL2000/LFBA200B) to Fisher 2, the catch history recorded against FBL2000/LFBA200B and the vessel (FBL2000/LFBA200B) will be transferred to Fisher 2. This is due to all catches on FBL2000/LFBA200B being recorded on separate monthly CAES returns to the other vessels within the licence package.

The IAP notes that it is regrettable that a stronger policy stance and more direction was not provided to fishers recording the catches of dinghies and tied FBLs. As a consequence it is likely that many fishers will feel aggrieved if they are not granted what they consider the access they are entitled to, either i) on the grounds of not recording dinghy catch history separately, or ii) the acquisition or sale of dinghy licenses and the transfer (or not) of catch history. The IAP is, however unable to unscramble catch history due to the form of reporting and is bound by the data provided. Such difficult circumstances also reinforce the need for an appeal mechanism to accommodate these issues.

5.7 Unitisation

FMP270 suggests a future approach based on a simple, limited entry framework and input controls with no suggestion of an allocation process to grant individual transferrable catch (ITQ [quota]) or effort units (ITE). The strong majority view of industry does not support such effort or catch unitisation and prefers the simplicity of equal gear 'allocations' and restrictions which, in their view, would be more equitable and allow more fishers occasional access to the fisheries without unduly impacting on the resource. Specifically, the view of these fishers who do not support catch-history based unitisation is that unitisation would:

- Create complexity and costs which cannot be sustained in what is a small scale fishery with marginal profitability.

- Require an unaffordable level of research to determine Total Allowable Catch (TAC)/Total Allowable Effort (TAE) and support management of allocated units.
- Unduly restrict operators given the multi-species, multi-gear nature of most of the fisheries under consideration.
- Drive single species/gear fisheries which would not be in keeping with the realities/drivers on the South Coast.
- Reduce the supply of fish and prevent expansion of the fishery in less-well-exploited areas.
- Be unnecessary due to constraints on the fishery (weather, distance to markets, etc.).
- Could favour investors and be detrimental to small operators and local communities.

There was also a view that allocation should occur at some point in the future and that interim management plan arrangements were more appropriate than moving directly to management plans.

The view in favour of unitisation noted that:

- Implementing access criteria without a subsequent and linked allocation process will address only part of the needs for a well-managed fishery and will not provide the certainty necessary to develop fisheries on the South Coast over the long term (20-30 years).
- The proposed management strategy provides inadequate protection against the activation of latent effort and the resulting impact on sustainability and therefore individual effort (ITE) or output controls (ITQ) would be more effective.
- An interim management plan and subsequent unitisation would be more in keeping with past practice and pronouncements on allocation and management using TACs and ITQ or proxy ITEs.
- It would avoid the danger of a change in wealth/entitlement if allocation occurs after establishment of a management plan.

Use of an interim management plan with a move to unitisation in the short-medium term is not suggested by the IAP. The IAP considers that access arrangements and management under license limitation and gear controls will best meet overall objectives for the fishery, as laid out in the FRMA, considering the nature of the fishery (weather, markets, etc.) and its importance to South Coast communities. The likelihood of 'rushing' to gain catch history for any subsequent allocation is considered to be low, given the current understanding of the IAP concerning the future management of the fishery, based on FMP270 and discussions with the Department.

It is the view of the IAP that for the foreseeable future, implementation of ITQs or ITEs for these fisheries would be inappropriate.

5.8 Need for licence classes within MFLs

A number of fishers felt that the proposal under FMP270 is too complex. They could not perceive the benefit from the use of separate license classes permitting use of certain gear under each proposed MFL classes.

For example, in the case of the proposed South Coast Line, Fish Trap and Squid Jig MFL, separate licence classes for

- i) handline, dropline and trolling,
- ii) trap, and
- iii) squid jig.

An alternative suggestion was to establish two plans and MFL classes (line and net) without different licence classes within them. It was suggested that such an approach would enable fishers to retain access to all methods within each broad category of fishery to remain viable.

The IAP is of the view that given the diversity between methods and the ability of some of these to target particular species groups (e.g. squid jigging and drop-lining for hapuku and other deep water species) that differentiation between gear types under each of the two South Coast fisheries management plans approved for development by the Minister is appropriate and implicit in the ToRs for IAP. However, it is the view of the IAP that there is some value in combining the open-access netting gears as they are linked in terms of species and areas of operation (see also Section 7 below).

5.9 Squid as bait

Some fishers are taking squid on commercial vessels for use as bait, which are not being recorded in logbooks as required by Regulation 64 of the FRMR (see also Section 5.4) above and many were concerned at loss of ability to catch squid for bait. The IAP notes that it is a condition of license to record all fish taken on a commercial vessel, whether or not it is landed or used as bait. The IAP considered allowing FBLs licensed for line fishing methods in the fishery to carry two squid jigs for the purpose of catching bait and personal consumption but decided against this option on the grounds that it could undermine the viability of those with access to squid and who wished to further develop the fishery, as well as making the management of the squid fishery, including compliance arrangements, unnecessarily complex.

5.10 Compensation/buyback

As is usual with most access and allocation processes, some fishers felt that those that did not meet the catch or effort access 'bar' could be excluded from the fishery, which, in their view would amount to the removal of what they consider are property rights for which those affected should be compensated. Establishment of a small fund could ease the adjustment process and the IAP is aware of a general FBL buyback scheme that coincided with the wetline reviews, but has now ceased. The IAP understands, and is generally supportive of, the Department position, that given the processes used to transition other similar fisheries (e.g. West Coast and Gascoyne) fisheries to formal management without compensation it would not be equitable or appropriate to apply a specific compensation package on the South Coast. Apart from such considerations, the ability and/or the willingness of Government to fund such a process is highly uncertain.

6. Other issues

6.1 Recreational fishing

There was concern expressed by the commercial fishers that the growing recreational fishing effort, including the use of larger 'offshore' vessels by recreational fishers, could undermine the benefits of the improved management of commercial fisheries. The IAP is sympathetic to these concerns, which it is hoped will be addressed through effective and equitable resource sharing arrangements.

6.2 By-catch

Some fishers submitted that the current requirement to discard species that are subject to another Management Plan is wasteful. Those using hooks at sea submitted that it is not unusual to catch one or two fish that are subject to another Managed Fishery Plan (i.e. Australian salmon). They claim that discarding the fish is wasteful since the fish is unlikely to survive and contribute to recruitment of that species. Moreover, their own catch is low and that any fish that can be sold can contribute to making a fishing trip viable. Some fishers suggested that legislation similar to Fisheries Notice No.556 (applicable to trawl fishing) could achieve the desired outcome. The IAP is sympathetic to some form of facility that will allow the landing of limited quantities of genuinely unavoidable bycatch of species that are restricted through separate management arrangements. However, determining what is

'unavoidable' can be challenging and the IAP would suggest that some trip limits be determined to prevent any targeting of species under separate management.

The IAP suggests that trip limits be developed that will allow South Coast fishers to land unavoidable by-catch.

6.3 Leasehold properties dependent on commercial fishing activity

The IAP was made aware of the circumstances of a number of FBL holders who may, depending on the final access criteria decided by the Minister, lose their homes due to lease requirements requiring the lease holder to be an active commercial fisher. While the IAP has great sympathy for those fishers and families that face great uncertainty, other than bringing the matter to the attention of the Minister, making firm recommendations on the issue is well beyond the scope of the IAP's mandate. However, this reinforces the need for an appropriate mechanism to hear cases of special circumstances as recommended by the IAP.

6.4 Tourism and local markets

From Augusta in the west, through to Albany, then Esperance in the east, commercial fishing has a long and proud history of community contribution and support for tourism. With significant local employment on boats and in processing, transport, repairs and maintenance, the industry is notably locally focused. From what we have been able to ascertain, no commercial fishery considered in this Report is licensed to export.

Written and oral submissions to the IAP revealed that all the fisheries are focused on providing fresh (in particular) and frozen fish to their local market and the wider WA market.

A number of commercial fishermen supply directly to local supermarkets, restaurants, fish shops and also directly to consumers (notably via their own initiative through such mechanisms as Facebook). Others supply directly to consumers through local Farmers Markets, apparently with a great deal of success.

Almost without exception local restaurant menus feature the availability of locally caught seafood. With the Premier recently taking on the Tourism Portfolio, the State is quite seriously focused on the rise of tourism as a significant wealth and employment generator.

Reference to all web sites and other tourist material available throughout the South West and the Great Southern reveals a clear and strong focus on food and wine-related tourism. Time and time again information available to tourists refers to the availability of "locally caught fresh seafood from the pristine Southern Ocean".

Without local commercial fishers this vital aspect of our tourism would vanish.

In considering the future of these Fisheries, the IAP is firmly of the view that the above factors must be taken into account such that the sustainability and strength of the South Coast commercial fisheries is both maintained and enhanced.

7. Independent Allocation Panel Recommendations on Access

For the reasons outlined in the body of the report, the IAP recommends that the access mechanism be based on the following key principles:

1. That future access to fisheries where FBL Conditions exist be limited to the existing FBL Condition holders, including:
 - a. That access to oceanic fish traps be limited to the existing FBL Condition 74 holders.
 - b. That access to King George Sound fish traps be limited to the existing FBL Condition 192 holders.
 - c. That access to G-nets be limited to the existing FBL Condition 42 holders.
2. That access in open-access fisheries be based on participation (via catch hisToRy) and in particular;

- a. a FBL with no participation (i.e. no catch hisToRy) will not gain access; and
 - b. ensure a consistent method for recommending access based on participation (using catch hisToRy as a proxy for participation).
3. Fishery boundaries and Zoning in the fisheries be as follows:
 - a. For each fishery the western boundary be at Black Point, the eastern boundary be at the WA/SA border and offshore to the Australian Fishing Zone limit and to include King George Sound.
 - b. That separate zones (Oceanic Zone and King George Sound Zone) be established in the proposed South Coast line, fish trap and squid jig fishery to spatially separate fish trap authorisations for:
 - i. the Oceanic fish trap fishery (currently operating under FBL Condition 74) into the Oceanic Zone incorporating the waters of the fishery excluding the waters of King George Sound; and
 - ii. King George Sound fish trap fishery (currently operating under FBL Condition 192) into the King George Sound Zone within the waters of King George Sound (CAES block 96030).
 - c. That no other zones be established.
4. That the qualifying period used to grant access based on participation (using catch hisToRy as a proxy) be from 1 January 1993 to 31 December 2013.
 - a. The commencement of the qualifying period of January 1993 accounts for:
 - i. participation in these fisheries prior to the 1997 investment warning; and
 - ii. FBL investment decisions made based on the 1997 investment warning.
 - b. That the conclusion of the qualifying period be 31 December 2013 accounts for:
 - i. the 9 December 2013 investment warning, however, the Department is not able to differentiate part month catch returns therefore requiring an end of month period; and
 - ii. providing value to those FBL holders who demonstrated participation in the open-access fisheries prior to the 2013 investment warning.
5. That access to beach seine, haulnet and gillnet (with mesh size less than 114mm) be combined instead of being granted by separate licence classes on the basis that all three methods are linked (i.e. similar gear in the catch of beach seine and haulnet and species) and it will provide greater flexibility for operaToRs. Noting our position, as the Minister has provided in-principle approval that beach seine and haulnet be separate to gillnets in the proposed South Coast nearshore net fishery, the IAP will provide separate recommendations for access criteria for both i.e. i) Beach Seine and Haulnet, and separate Gillnet ii) Beach Seine, Haulnet and Gillnet combined.
6. The IAP considered the following options for a level of catch hisToRy for access:
 - A qualifying total tonnage for the period November 1 1993 to December 31 2013.
 - A qualifying tonnage of catch in a specified number of years during the qualifying period. It was noted that this may be problematic due to the reported variation in activity between years. Submissions noted peculiar marketing or other problems outside the control of fishers in certain years.

- Average of tonnage over the best reported catch years during the qualifying period to level out variability between years (as occurred in the West Coast and Gascoyne Access).
- Any catch during a number of years during the qualifying period. This is akin to a minimum level of participation.

The IAP chose the first option because the IAP considers that this option recognises;

- the level of reliance on a particular fishery/gear type and activity in the fisheries to which access is to be granted,
- the need for simplicity and avoiding the need to rely on catch verification which would be the case if more than one qualifying period was chosen, as occurred in the West Coast and Gascoyne fisheries,
- the investment that some fishers have made in FBLs with catch history in the expectation that this, in line with other WA fisheries, would be reflected in the future granting of access,
- those that heeded the 2013 investment warning,
- the need for an appropriate level of flexibility through lease or purchase of latent licenses for those who fail to obtain access to a particular fishery,
- the need for balance between i) managing latent effort in recognition that future management may be required (see point below) with ii) the need to not constrain effort unduly in a fishery that is currently sustainable and
- the WA Department of Fisheries' intention to manage the South Coast fisheries using a limited entry framework using simple input controls (eg. gear) and, if additional management is necessary that tighter input controls may be imposed. If appropriate, consideration may also be given to unitising gear allocations whereby operators will be able to buy or lease additional units of gear/time to come up to the amount required for efficient and economic operation.

Access Recommendation 1: That access to the fish trap licence class in the Oceanic Zone of the South Coast line, fish trap and squid jig fishery is to be based on a FBL that is currently endorsed with FBL Condition 74.

Access Recommendation 2: That access to the fish trap licence class in the King George Sound Zone of the South Coast line, fish trap and squid jig fishery is to be based on a FBL that is currently endorsed with FBL Condition 192.

Access Recommendation 3: That access to the line licence class of the South Coast line, fish trap and squid jig fishery is to be determined based on a minimum catch of 10,000kg of scalefish taken by open access line fishing methods (handline, dropline and trolling methods) reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

Access Recommendation 4: That access to the squid jig licence class of the South Coast line, fish trap and squid jig fishery is to be determined based on a minimum catch of 100kg of squid and cuttlefish taken by open access squid jig methods reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

Access Recommendation 5: That access to the G-net licence class in the South Coast

nearshore net fishery is to be based on a FBL that is currently endorsed with FBL Condition 42.

Access Recommendation 6: That access to the haulnet and beach seine licence class of the South Coast nearshore net fishery is to be determined based on a minimum catch of 2000kg of scalefish taken by open access haulnet and beach seine methods reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

Access Recommendation 7: That access to the gillnet licence class of the South Coast nearshore net fishery is to be determined based on a minimum catch of 1000kg of scalefish taken by open access gillnet methods (gillnets with a mesh size less than 114mm) reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

Access Recommendation 8 (Alternative to Access Recommendations 6 & 7 - if the Minister decides that haulnet, beach seine and gillnets (with a mesh size less than 114mm) should be combined under the one licence class): That access to the nearshore net licence class of the South Coast nearshore net fishery is to be determined based on a minimum catch of 2000kg of scalefish taken by open access net methods (haulnet, beach seine and gillnets [with a mesh size less than 114mm]) reported against a FBL in the oceanic waters of the South Coast between Black Point (115°30'E) and the South Australian border (129°E), including King George Sound in the qualifying period from 1 January 1993 to 31 December 2013.

8. Conclusion

The IAP believes that the access mechanism recommended best satisfies both the objectives of the fishery's legislative base and the important principles behind granting "fair and equitable" access. The recommended access mechanism achieves this by:

- meeting the objective to "develop and manage fisheries",
- meeting the objective "to share and conserve the fish resources",
- assisting in "achieving the optimum economic, social and other benefits from the use of fish resources" and
- providing the basis to enable the allocation (and reallocation) of fish resources between users.

Attachment 1: Terms of Reference

SOUTH COAST COMMERCIAL FISH TRAP, G-NET AND OPEN-ACCESS LINE, NET AND SQUID JIG FISHERIES INDEPENDENT ACCESS PANEL

Governing Authority: Director General

Agency: Western Australian Department of Fisheries (the Department)

Proposed Members: To be appointed by the Director General

Purpose

To provide advice to the Director General on matters of access related to the implementation of Management Plans for the South Coast commercial herring G-net, fish trap and open-access line, net and squid jig fisheries and if considered appropriate, matters that may be relevant to advice on how any future allocation of entitlement might be given effect.

Scope

In developing their recommendations the Independent Access Panel (Panel) is to:

- a) consider South Coast catch and effort history (prior to the benchmark date of 9 December 2013) of Fishing Boat Licenses (FBLs) associated with:
 - i. open-access line (handline, dropline and trolling methods);
 - ii. open-access haul net (including beach seine);
 - iii. open-access gillnet (mesh size less than 114mm); and
 - iv. open-access squid jig.
- b) consider access arrangements and application of the benchmark date (9 December 2013) for FBLs endorsed with:
 - i. Condition 42 (herring G-net fishery);
 - ii. Condition 74 (South Coast oceanic fish trap fishery); and
 - iii. Condition 192 (King George Sound fish trap fishery).
- c) consider relevant information contained in FMP270.
- d) take account any decisions made by the Minister for Fisheries regarding the Review;
- e) take account whether there should be any weighting given to key species or effort parameters;
- f) take account the various statements by the Minister for Fisheries and Director General regarding investment or activity in South Coast open-access fishing after 3 November 1997 and 9 December 2013 respectively;
- g) have regard to any relevant processes and principles from the West Coast and Gascoyne wetline reviews;
- h) make such enquiries on South Coast commercial G-net, fish trap and open-access fishing as the Panel thinks necessary to properly carry out its function; and
- i) consider any other matter that is deemed relevant by the Panel including matters of exceptional circumstances.

The Panel shall take all steps it considers reasonable in developing its final advice. This includes providing the opportunity for stakeholders to meet with the Panel and making a copy of the draft report available to the Department, WAFIC and current relevant FBL holders and considering comments on the draft prior to submitting a final report to the Director General.

The Panel may seek further advice from the Department on the scope of activities and other questions in response to issues that arise with regard to the Terms of Reference or otherwise during the course of its activities

Benchmark Date

To avoid the possibility of an effort and/or investment rush, a benchmark date has been set following the Minister's approval of the Review. All FBL holders have been notified of the benchmark date of 9 December 2013 and advised that any investment in herring G-net (Condition 42), fish trap (Conditions 74 and 192) and open-access fishing activities on the South Coast after the 9 December 2013 may not be taken into account in determining access. Please note a previous benchmark date of 3 November 1997 was set for all WA open-access fisheries by the (then) Minister for Fisheries.

Required Activities

The Panel will be required to:

- a) review the available catch and effort history as well as any other relevant information in FMP270.
- b) provide an opportunity for existing FBL holders and WAFIC to meet with, and make written representations to the Panel in regards to the grant, nature and degree of access to fisheries under the Review; and
- c) make a copy of the draft report available to the Department and key stakeholders and consider comments on the draft prior to submitting a final report to the Director General.

Key Stakeholders

The key stakeholders include:

- a) all current FBL holders with open-access line, net and squid jig fishing history on the South Coast;
- b) all current FBL holders with herring G-net endorsements (Condition 42);
- c) all current FBL holders with oceanic fish trap endorsements (Condition 74);
- d) all current FBL holders with King George Sound fish trap endorsements (Condition 192); and
- e) WAFIC.

Minimum Required Outputs (Deliverables)

A signed, formal report outlining the Panel's recommendations is to be provided to the Director General. The report shall provide advice on the criteria to determine access to each fishing method within the scope of the Review and under the proposed management plan framework, with supporting arguments and explanations or justification for the recommendations.

Specifically, the report should include advice on the recommended criteria and method to determine access to zones of the line, fish trap and squid jig fishery to be established under a new management plan by fishing method, including:

- i. line fishing methods (handline, dropline and trolling);
- ii. fish traps; and
- iii. squid jigs.

The report should also specifically include advice on the recommended criteria and method to determine access to zones of the nearshore net fishery to be established under a new management plan by fishing method, including:

- i. haul net and beach seine fishing methods;
- ii. herring G-nets; and
- iii. gillnets with a mesh size less than 114mm.

Panel members shall provide a brief curriculum vitae accompanied by declarations that they have no conflict of interest or any potential perceived conflict of interest or bias.

Timeframe

The Panel is to present the final report to the Director General by 31 August 2016, unless otherwise agreed between the Panel and the Director General.

Support

The Department will provide the Panel with support (e.g. executive services, travel and meeting arrangements and responses to requests for additional information) on an agreed basis.

Guidance

The Department's Manager South West Bioregions will provide the Panel with any further guidance as required.

Governance and Confidentiality

To the extent that they apply, the Panel will be required to comply with requirements of the *Fish Resources Management Act 1994*, the *Public Sector Management Act 1994* and related regulations. Particular attention should be paid to Section 250 of the *Fish Resources Management Act 1994* and Administrative Instructions No. 711 made under the *Public Sector Management Act 1994*.

All written representations made by key industry stakeholders to the Panel will become public records and be subject to the *Freedom of Information Act 1992*.

Intellectual Property and Retention of Records

All documents and other materials other than Panel members' personal documents (such as receipts, invoices, diaries etc.) used and produced by the Panel in the course of its activities remains the property of the Department and at the completion of its activities must be returned to the Department for retention on Department files. Any electronic documents, or electronic copies of documents, must be either returned to the Department or, where the Department already holds a copy or they are peripheral documents, destroyed on completion of the project.

Reference Material

The following information will be provided as reference material to the Panel:

- 1997 and 2013 investment warnings;
- FMP270;
- WAFIC, Recfishwest and industry submissions received during consultation on FMP270;
- Smith, K., Quinn, A., Smith, E. (2015). South Coast Nearshore and Estuarine Finfish Resources Status Report. In: *Status Reports of the Fisheries and Aquatic Resources of Western Australia 2014/15: the State of the Fisheries* eds. W.J. Fletcher and K. SanToRo, Department of Fisheries, Western Australia, pp. 247-258;
- Norriss, J., Walters, S. (2015). South Coast Demersal Scalefish Resource Report: Statistics Only. In: *Status Reports of the Fisheries and Aquatic Resources of Western Australia 2014/15: the State of the Fisheries* eds. W.J. Fletcher and K. Santorc, Department of Fisheries, Western Australia, pp. 272-274;
- *Herring Trap Net Notice 1991*;
- *Herring Trap Nets Order 2015*;
- *Fish Traps Prohibition Notice 1994*;
- Catch hisToRy for each fishing activity;
- Fisheries Management Papers (No.189, No.190, No.191, No.205, No.206, No.207, No.221 and No.224) relevant to the West Coast and Gascoyne wetline reviews; and
- Australian Fisheries Management Authority: Fisheries Management Paper No.8 – **Draft Report – 23 July 2016**

Allocation of fishing concessions where management arrangements change.

Provision of additional information

Requests for additional information should, in the first instance, be directed to the following officers from the Department:

Mr Shane Walters
Telephone: (08) 9482 7387
Email: shane.walters@fish.wa.gov.au

Mr Graeme Baudains
Telephone: (08) 9482 7369
Email: graeme.baudains@fish.wa.gov.au

Mr Tim Nicholas
Telephone: (08) 9482 7362
Email: tim.nicholas@fish.wa.gov.au

Appendix 1: IAP Public Consultation



Government of Western Australia
Department of Fisheries

Fish for the future

Our Ref: 107/13

Dear Fishing Boat Licence holder

SOUTH COAST COMMERCIAL FISH TRAP, G-NET AND OPEN-ACCESS LINE, NET AND SQUID JIG FISHERIES REVIEW - INDEPENDENT ACCESS PANEL

I wish to advise that the Minister for Fisheries has approved the establishment of an Independent Access Panel (Panel) to provide advice on matters related to access to the fisheries considered as part of the South Coast commercial fish trap, G-net and open-access line, net and squid jig fisheries review (Review).

Please note the inclusion of the herring G-net fishery is subject to the outcomes of the G-net fisheries Voluntary Fisheries Adjustment Scheme and the Minister for Fisheries' review of herring stock status and management arrangements (due in late 2016).

The Panel process is the next step in the Review following public consultation on the proposals outlined in Fisheries Management Paper No.270. I wish to advise that the Department of Fisheries has appointed Mr Ian Cartwright, Mr Graeme Stewart and Mr Ian Taylor to form the Panel.

The Panel will be conducting industry meetings (including the opportunity for smaller group and/or individual fisher meetings) on the week of 14-18 March 2016, as outlined below:

1. **Augusta:** Centennial Hall, Corner of Allnut Terrace and Hillview Terrace, Augusta.
14 March 2016 from 11:00am – 6:00pm.
2. **Albany:** Stirling Club, 14 Stirling Terrace, Albany.
15 March 2016 from 1:00pm-7:00pm.
3. **Albany*:** Stirling Club, 14 Stirling Terrace, Albany.
16 March 2016 from 8:00am-2:00pm.
4. **Esperance:** Esperance Yacht Club, The Esplanade, Esperance.
17 March 2016 from 8:00am-2:00pm.
5. **Hillarys:** Department of Fisheries, 39 Northside Drive, Hillarys.
18 March 2016 from 8:30am-4:00pm.

*Meeting is an additional meeting to the Albany meeting on 15 March 2016. An indicative agenda for each meeting is attached for your reference.

Please contact Shane Walters on (08) 9482 7387 or via email at shane.walters@fish.wa.gov.au to confirm your attendance and to request a private or group meeting with the Panel (optional).

Yours sincerely

Lindsay Jolliffe
Director Aquatic Management

2 March 2016

Head Office

3rd Floor, The Atrium, 168 - 170 St Georges Terrace, Perth WA 6000; Locked Bag 39, Cloisters Square WA 6850
Telephone (08) 9482 7333 Facsimile (08) 9482 7389 customerservice@fish.wa.gov.au
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ABN: 55 689 794 771

Appendix 2: Notes from Public Meetings

1. Opening remarks for the meetings provided for each meeting.

The members of the IAP introduced themselves. The meeting was provided with a verbal opening statement.

Emphasis was placed on:

- **The role of the IAP** – see ToRs (Attachment 1)
- **The process to be followed and the approximate timing. Factors to be taken into account.** The IAP will take account of WA fisheries legislation and ensure that its recommendations have a statutory basis and are consistent with relevant legislative objectives; FMP224 (the 2007 Wetline Review), the *Gascoyne Demersal Scalefish Management Plan 2010* – the GDSFMP; Ministerial announcements and any other documents and matters the IAP considers relevant.
- **FMP270 and its key proposals**
- **General views and comments.** Meeting participants were encouraged to make their views known to all stakeholders present rather than through private meetings, albeit that option will be available. Where the option of private meetings is taken up, licence holders were encouraged to confine the issues raised to personal circumstances.
- **Department influence.** The IAP stated that it held no pre-conceived views about what a future allocation would look like. While the Department had provided the IAP with a technical briefing about the hisToRy of the management of the fishery, and in particular the chain of decisions that had been taken, no Departmental view on allocations had been offered, and no attempt had been made to influence the IAP. After an initial session, the Department staff left the meeting to enable industry to meeting with the Panel without their presence.

Main issues raised by industry during the Access Panel Port Tour

The points below represent the key issues raised by industry during Access Panel Port Tour meetings held 14-18 March 2016. There is no indication of support or otherwise from participants at the meeting for the suggestions which, in most cases, were raised by individuals. Many of these issues are specifically addressed in the body of the Access Panel Report, while others that lay outside the scope of the Panel's terms of reference are included so that the Department can give them further consideration.

1. Augusta 14 March

Permissive Conditions (PC) on FBLs. Lack of awareness by industry that holders of the right provided under Conditions for fish trap (South Coast Oceanic and King George Sound) and herring G-net are weak. Consequently, it was thought that these rights may be subject to change. DoF clarified intent to transition PCs to more formal arrangements, strengthening existing rights.

Fish taken as bait. Some fishers are taking squid on commercial vessels for use as bait, which are not being recorded in logbooks.

Current western boundary of the South Coast fishery. Concern expressed that the (Bioregional) boundary at Black Point is not appropriate and that the previous (grid) boundary at Cape Leeuwin is more appropriate. SC fishers consider the line at Black Point caused a shift in historical access rights (i.e. transfer of wealth) from those fishers that fish the SC and had history in the area between Cape Leeuwin and Black Point to those that predominantly fished on the WC, west of Cape Leeuwin.

Multi-gear multi species nature of the fishery. Management of the fishery should not drive the development of single gear/species activities. Fisheries reliant on a single gear type on

the South Coast, given the characteristics of fishery and the need to adapt to fishing opportunities, would not be viable. DoF expressed agreement.

Stock assessment. Uncertainty as to why the stock assessment has not been released. There was concern that it may be used by Department in the same way as herring to unduly restrict or prevent commercial fishing. Fishers have no particular concerns around current stock, market access being the greater concern.

Recreational fishing. Growing recreational fishing effort, including the use of larger, 'offshore' vessels by recreational fishers, could undermine benefits of the improved management of commercial fisheries. Commercial sector more closely managed than the recreational sector.

Local depletion around population centres. Some fishers are travelling further to achieve acceptable catches and catch rates. Stock declines and reduced fish size are occurring in some areas around population centres, undermining profitability. Long term fishing history and consistency of fishing effort/catch around population centres should be considered in access decisions.

Need to control latent effort. While the current level of effort is generally acceptable, there is a risk that effort will increase and undermine those who wish to invest in the fishery. This increase is likely to occur around population centres.

Need for catch verification. The issue of investment warnings and the likelihood of the use of catch history to determine access and allocation have provided an incentive to falsify catch returns following the 1997 and 2013 investment warnings.

Suitability of access criteria. Acknowledgment of a need for balance in setting access criteria ranging between:

- i) a low bar to access, that ensures there is no loss of rights and maintain access to all (or most fishing methods) and
- ii) a higher bar to grant access, based on activity in the fishery that will provide greater viability for the future for those who meet the criteria.

Factors to consider include:

- i) consistent catch history over given time frame,
- ii) current fishing activity (days/hooks/hours),
- iii) fishers with small annual catch history,
- iv) participation at each of the key investment warning dates and
- v) minimise the number of winners and losers (i.e. those that receive particular advantage in achieving access and those that do not gain access.

Appeals procedure. Attendees expressed a desire to establish of some form of appeals procedure to consider special circumstances and hardship cases.

Bycatch. Need to formalise provision for the landing and sale of genuine bycatch/by-product in existing managed fisheries (i.e. SC Salmon) as occurs, for instance under the arrangements that provide for this in trawl fisheries.

Zones. Questioned the Department of Fisheries commitment to manage the fishery as a whole and not create zones. A line at Hopetoun would spread the effort. Limited support for this proposal, most not in favour.

Activation of effort through creation of new MFLs assigned to boats not currently in the fishery/License splitting. This could happen if the holder of a MFL in another fishery gains access to the South Coast net and/or line fishery. They would then be granted a new MFL against which they could put a FBL (in addition to the FBL in the other fishery). This could result in an extra vessel on the South Coast. (There will still be the same number of

boats in each fishery, but there will be an additional active boat on the South Coast as there are now 2 boats operating in two different managed fisheries as opposed to one boat operating in a managed fishery and an open-access fishery at the same time).

Catch hisToRy of dinghies. Difficulty in differentiating catch hisToRies of dinghies used in support of the primary vessel (A, B, C etc.) from primary vessel – majority of fishers supported the position that catch should be aggregated on to the primary vessel.

Leasehold properties dependent of commercial fishing activity. Some leases on coastal properties are conditional on the leaseholder being a commercial fisher. If access criteria are not met, there is concern that leases will be terminated or not renewed.

Late notification of meeting. Some fishers only received notification of the meeting on 11th or 14th March.

2. Albany 15-16 March

Complexity of proposed management arrangements. The proposal under FMP270 is too complex; need to demonstrate why there is a need for access to separate license classes permitting use of certain gear under each proposed MFL class (e.g. in the case of the proposed South Coast Line MFL, separate licence classes for i) handline, dropline and trolling, ii) trap, and iii) squid jig. Suggest just establish two Plans/MFL classes without different licence classes. Fishers emphasised that it is important to retain access to all methods to remain viable.

South Coast as a special case. The West Coast fishery is very different from the South Coast in terms of stocks, fishing methods, markets etc. and the Panel should be aware of this during their deliberations.

Handline vs dropline. Need to clarify the two definitions.

Right to fish out to five nautical miles with handlines. Assumed that estuary MFL holders will be able to continue to fish out to five nautical miles with handlines, noting that the 'five mile rule' is a condition of vessel survey not a fisheries management tool.

Acknowledgment of submissions. There has been no acknowledgment or summary of submissions made by fishers to FMP270.

Stock assessments. No faith in current stock assessments; need WAFIC and independent scientists to be involved to increase support for assessments.

Squid jigging. There should not be a separate gear entitlement for squid. This activity should be rolled into wetline fishing, since many of these fishers need this entitlement to catch bait. Ability to further develop squid effort across fishery should be maintained.

Recreational fishing effort. Attendees expressed concern at increasing catches taken by recreational fishers, including in the offshore deep water fishery.

Use of different gears in a single fishing day. Given the multi-species, multi-gear nature of the fishery it is important to be able to use more than one gear on a single day – e.g. squid jigging and inshore hook and line.

Zonation. Consider zonation in the fishery especially where there is the potential for local fishing pressure and stock depletion – e.g. create a zone around Albany. Consider inshore/offshore zone. No appetite for VMS requirements in fishery.

Appeals procedure. Attendees expressed a desire to establish some form of appeals procedure, particularly to provide advice on special circumstances and hardship cases.

Self-regulating fishery. No need for sophisticated management controls - Weather, tides, markets etc. are sufficiently effective controls on effort.

Preferential access for South Coast Fishers. Those fishers that live and work on the South Coast should have preferential access under the proposed new fisheries management plans.

Fish availability/abundance. Changes in fish populations more related to environmental change than fishing effort.

Compensation. If some fishers do not make the catch or effort access 'bar', this amounts to a removal of property rights and consequently they should be compensated.

Aspirations. The aspiration to own a FBL, even if it is based on very recent activity/catch history, should be given equal consideration to those that have longer/greater activity histories.

Risk of activation of latent effort. The risk of increasing effort is low, as demonstrated by the fact that fishers have not flocked to the South Coast as other fisheries have moved to managed fisheries.

Some evidence of increasing effort. Some stocks around population centres are now not as healthy as previously, but not to the point of being serious in terms of sustainability. Current effort should be maintained with no radical change.

Status of the resource. Unclear about extent of resources; unsure if there is a need for the management envisaged under FMP270. Also there may be stocks we don't know about.

Leasehold properties dependent of commercial fishing activity. Some leases on coastal properties are conditional on the leaseholder being a commercial fisher. If access criteria are not met, there is concern that leases will be terminated or not renewed.

Comparing fishing activity. Unclear how, and if it will be fair, to compare the catch history from very different vessel sizes and catching power (crew, hydraulics) e.g. in the inshore wetline and offshore dropline fisheries. Different zones may be required.

Squid as a separate fishing method. Segregating squid from other line methods will drive effort and reduce the ability of wetline fishers to use jigs to catch bait.

Catch history issues with auxiliary boats. Difficulties with dinghies purchased with catch history where they have been recorded catch history in conjunction with primary vessels.

Falsified catch reporting. Catch reported may have been artificially inflated (illegally) to secure access/allocation.

Investment warnings. Fisheries may have made significant investments based on the 1997 investment warning by purchasing a FBL with catch history, then worked a second FBL with more recent catch history; concerned that neither will provide access.

Criteria to favour local fishers. Access criteria should include history of licence (years fishing and catch), holder must have fished for a period on the South Coast and must be currently active.

Second investment warning: Criteria should be based on catch prior to 2013.

Other access criteria: Criteria should:

- be based on regular fishing effort over a range of fisheries and gear types i.e. not limited to the gear type for which access is being considered; and
- include reliance on fishing for yearly income.

Awareness of management change. Lessees of entitlements were/are unaware of the review, investment warnings, etc. due to communications being sent to FBL holder.

Strengthened access right. Can see the value of limiting access to obtain a stronger access right and provide more certainty to support investment in the fishery.

Proposed ASL closure zones and implementation of Marine Protected Areas. Reduced spatial access to fishery should drive bar for entry criteria higher.

Owner operator. Removal of the owner-operator provision and use of leases has increased effort.

3. Esperance 17 March

Creation of MFLs. Where MFL holders in other fisheries achieve the necessary criteria to access a gear entitlement, then that entitlement should be placed on that MFL – does not create a new MFL to the extent that it allows an additional boat into the fishery. Strong concerns raised over license splitting and its potential to increase effort.

Costs of license fees. Attendees expressed concern that licence fee costs under GVP access fee arrangement will be prohibitive.

Squid jig as separate endorsement. Should not be a standalone class. Squid is required as bait component and restrictions will stymie future development of squid fishery in eastern section.

Recreational fishing. Attendees expressed concern about a growing recreational sector undermining management arrangements for the commercial sector.

Use of boats. Want to be able to continue to use a range of vessels under a given MFL to cater to different fishing operations.

Catch history of 5.5m dinghies. Where these are operating independently i.e. not part of a fishing unit – catch history/activity to apply should apply as per other FBLs.

Support for unitisation. FMP270 and the access criteria process seems to address only part of the issue and will not provide the certainty necessary to develop fisheries on the South Coast over the longer term (20-30 years). Need to think of ways to achieve allocation (unitisation) e.g. by providing units of access based on fishing activity rather than simply a Yes/No access decision.

Opposition to unitisation. Unitisation will create complexity and costs, which will not be able to be sustained in this marginal fishery. There will also be a need for research to determine and support management of allocated unit. Unitisation is unnecessary due to constraints on the fishery (weather, distance to markets etc.). Unitisation could favour investors and be detrimental to small operators/local communities. An allocation process could follow when the fishery has developed.

Support for a longitudinal boundary at Hopetoun (120°E). Most attendees expressed support for separate criteria for access for FBLs with history east of Hopetoun on the basis that:

- squid and other fisheries east of Hopetoun will not be developed if the usual activity/catch access criteria are applied across the whole South Coast e.g. there is an equity issue if access to the squid is all provided to Albany fishers,
- FBLs with history in this 'zone' should be given access to all methods to retain viability (bar should be set low) and
- allows 'frontier fishery' to exist and opportunity to participate given technical advancements and market opportunities.

Support for a longitudinal zone;

- would be compatible with two other fisheries – purse seine and rock lobster,

- spreads effort and catch across the South Coast,
- allow Esperance fishers to develop their fisheries (as long as different access criteria are applied to the east of the Hopetoun line – as it stands it looks like they may not acquire the necessary licenses under the proposed access criteria,
- reflects the differences in physical characteristics, markets etc. and
- would prevent fishers/MFL holders from accessing an area where they have no history.

Opposition to a longitudinal boundary. Some opposition on the basis that:

- Fishers to the east would be denied access to the west of the South Coast.
- Determining access using different criteria would be problematic and controversial.
- Policing the line would be problematic for management requiring additional compliance etc., which may trigger a requirement for VMS, with a concomitant cost burden.

Fishing activity in other fisheries. Wish to see activity in other fisheries taken into account.

Developing fisheries. Need a mechanism for developing fisheries – danger that potential fisheries will not be developed if those living and working close to them are denied access. The Department should consider the retention of some MFLs which are allocated for future developmental needs. Octopus fishery is a case model for underutilisation, with only 1-2 licences on the South Coast.

Appeals procedure. Attendees expressed a desire to establish an appeals procedure, particularly to provide advice of special circumstances and hardship cases.

4. Perth 18 March

Buyback. Should be a buyback scheme implemented to include all eligible FBLs that are no longer able to access the South Coast.

Access and allocation. There was some opposition to undertaking an access process without a statement or plan for allocation.

Redistribution of wealth. Concern on redistribution of wealth if fishery allocated subsequent to access being determined and a Fisheries Management Plan determined (initially all created equal under access criteria, which is a virtual allocation).

Local markets and tourism. The South Coast wetline and net fisheries are closely associated with the supply of fresh fish to local markets as well as supporting tourism and related activities.

Appeals procedure. Attendees expressed a desire to establish an appeals procedure, particularly to provide advice on special circumstances and hardship cases.

Adjustment scheme/buyout. Need for a modest adjustment scheme on the South Coast to reduce hardship for those that do not meet the access criteria.

Infrastructure to support fisheries. If application of the criteria results in a substantial loss of access and insufficient fishers remain, critical mass to support infrastructure could be lost.

Commonwealth MPAs Consideration of impacts of Commonwealth MPAs.

Interim management plan Consider the use of an interim management plan on the basis that the fishery is not ready to move towards the ‘gold standard’ of a managed fishery (i.e. no unitisation).

Appendix 3: Shareholder Letter

IAP Letter to Stakeholders

South Coast Commercial Fish Trap, G Net, and Open Access Line, Net and Squid Jig Fisheries Independent Access Panel

c/o Department of Fisheries
Locked Bag 39
Cloisters Square WA 6000

Independent Access Panel (IAP)

The Director General of the Department of Fisheries (the Department) has established a process to provide independent advice regarding access to the South Coast Commercial Fish Trap, G Net, and Open Access Line, Net and Squid Jig Fisheries.

The IAP consists of Ian Cartwright, Ian Taylor and Graeme Stewart. All members have made declarations they have no real or perceived conflict of interest or bias relating to fishery.

We look forward to the upcoming industry meetings described in the Department's letter. At each of the meetings the Panel is especially interested in your comments and views on the following matters:

1. Current biological and economic status of the fisheries (are the stocks OK and are you making money).
2. The degree to which the current level of effort (i.e. number of boats fishing now in the various fisheries) is appropriate to enable profitable and sustainable operations.
3. Latent effort in the fishery and the potential impact if not managed adequately.
4. The most appropriate criteria (such as historical catch or activity) for providing access to the relevant fisheries under the proposed two new management plans in FMP 270.

We would be grateful if you would give some careful consideration to these four matters in advance of the meeting.

The IAP will also accept written submissions until 2 April 2016, noting you will have an additional opportunity for input on the IAP draft report, which the Department will release for consultation.

The IAP will consider all views received through this consultative process together with other information as deemed necessary to formulate our recommendations.

The IAP requests that licence holders take the opportunity to attend the meetings as set out in the schedule attached or provide a written submission to ensure maximum opportunity for your input to the process.

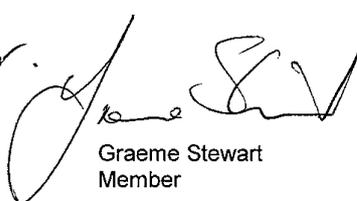
Yours sincerely,



Ian Cartwright
Chair



Ian Taylor
Member



Graeme Stewart
Member

3 March 2016

Appendix 4: Issues raised in Submissions to the IAP

- Need to ensure sufficient access to squid to allow fishery in the east to develop and reach potential.
- Growing recreational effort and use of technology by recreational fishers impacting on commercial fishers and S. Coast fisheries.
- Call for an appeals process, which *inter alia* could consider appropriate appeals from those fishers with some hisToRical and ongoing activity, but who do not meet the access criteria.
- Current fishermen should not be excluded from access, to avoid shortages in the supply of sustainable local seafood.
- Subsidiary dinghies should be given separate MFLs to enable multi-vessel operations (e.g. 3 dinghies to catch a patch of herring) to continue.
- Weather and market challenges have prevented the accumulation of significant catch hisToRy.
- Licences created since the Mandurah Working Group or those with no hisToRy should not be granted access.
- The fishers who took note of advice concerning benchmarks (pre and post 1997) and made investments in FBLs on that basis should be recognised in any granting of access.
- The fishery is sustainable given the current limited numbers of fishers and weather constraints, but should come under management to prevent increased fishing activity.
- The aim of management should be to limit activity at the current level and not to reduce current catch.
- Landing of unavoidable bycatch should be permitted to avoid waste.
- Logbook data/catch hisToRy should be used with caution owing to the level of incorrect reporting, both intentional and unintentional (caused by confusion over how to fill in logbooks).
- Create i) an inshore zone (squid, wetline, gillnet, beach seine, haul net, accessed by <7m vessels with access criterion of 500kg in any year up to 2015) and ii) an off shore zone with similar access requirements.
- Maintain numbers eligible to fish G-Nets and fish traps and formalise with a 'proper' license.
- Stop leasing licenses (9A, B, C, D etc).
- Fishers who took the decision on the advice of the Department to not lease dinky licenses (A, B, C etc.) may be 'severely disadvantaged' in the allocation of access as a result of that decision.
- Avoid unreasonable and unnecessary culling of fisher numbers.
- Latent effort can be controlled by gear limitations.
- Vessel size restrictions (5.5m rule) need to be maintained to increasing effort as a result of upgrades.
- Separating the license categories into three fisheries under each management plan will make it harder to make a living. Access is needed to all three fisheries

- Access criteria (from various submissions):
 - Three tonnes or more for any five years, between 2000 and 2013, with catches substantiated through examination of tax returns.
 - 800 KG scale fish in any four years between the year 2000 and 2013 and still be fishing commercially at 2016.
 - Catch hisToRy 1995-2015 – should not just recognise old catch hisToRy; if catch hisToRy used to determine access suggest 100kg squid 1997-2015, beach seining or meshing 100kg and dropline 100kg
 - All fishers who have some hisToRy in a particular fishery should retain access.
 - 31 December 2013 should be the cut-off date for consideration of catch/participation.
 - End of 2015 should be used as a cut-off date for consideration of catch/participation, to account for those who have made significant investments in good faith.
 - ‘HisToRical and ongoing activity’ as a high-priority access criteria.
 - Licences that are granted access should be divided into two groups:
 - Those with any MFL that operates exclusively in the proposed zone and the FBL to which that license is attached is currently authorised to operate in the wetline fishery i.e. access via an endorsement to the existing MFL which should i) not create a new MFL and ii) not be able to be split from the testing MFL
 - Those with sufficient catch hisToRy to qualify for a new, standalone, MFL with the appropriate endorsements. These endorsements would be able to be freely traded.
 - Base access on hisToRical activity but there should not be ‘a large catch’ entry criteria.
 - All licenses operating in the boundaries of Black point in the west to South Australian border in the east should be granted a minimum basic access of two drop lines with 10 hooks each, two hand lines with two hooks each, two troll lines and two squid jigs. Effort to be adjusted up or down as research becomes available other classes or permits to be added by a ‘show cause’ process.

Appendix 5: 1997 Investment warning

Attachment 1c.



Dear Licence holder

BENCHMARK DATE FOR 'WETLINE' FISHING HISTORY

I am writing to advise you that the Minister has requested the Department undertake an assessment of the fishing activity against the Western Australian Fishing Boat Licences, that is, in the 'wetline fishery'.

A benchmark date of Monday, 3 November 1997 has been set by the Minister in relation to the recognition of history within the fishery. Should changes in management result in a change in access arrangements, fishing history after 3 November 1997 may not be taken into account.

The assessment will include an analysis of catch data submitted through the Catch and Effort Statistical System managed by the Fisheries Department, the level of recreational fish take and an identification of particular fish resources at risk and any arising sustainability issues. In consultation with stakeholder groups, the Department will also examine the issues surrounding commercial access within the wetline fishery and make recommendations to the Minister on whether a formal review of management for this fishery is required.

This advice does not alter the benchmark date recently announced with respect to the Pilbara area, nor does it affect fishing under the authority of a managed or interim managed fishery authorisation.

The Contact officer within the Department is Fiona Crowe. She can be contacted through (08) 9482 7333.



P.P. Rogers
EXECUTIVE DIRECTOR

3 November 1997

3rd floor SGIO Atrium, 168-170 St Georges Terrace Perth, Western Australia 6000
Telephone: (09) 482 7333, Fax (general enquiries): (09) 482 7389, Fax (Executive Director's office): (09) 481 3576

Appendix 6: 2013 Investment warning



Government of **Western Australia**
Department of **Fisheries**



Mr John Harrison
Chief Executive Officer
Western Australian Fishing Industry Council (WAFIC)
PO Box 1605
FREMANTLE WA 6959

Dear John

I am writing to advise you the Minister for Fisheries has recently approved a review of 'open access' commercial line and net fisheries on the South Coast of Western Australia with a view to bringing these fisheries under formal management arrangements. The South Coast waters under review extend between Black Point at 115° 30'E and the South Australian border at 129° E and offshore to 200 nautical miles.

The 'open access' line and net fisheries on the South Coast include fishing in oceanic waters for finfish and squid using hook and line, haul nets of any size or demersal gill nets with a mesh size of less than or equal to 114mm. These commercial fishing activities are currently conducted under the authority of a Fishing Boat Licence (FBL) and a Commercial Fishing Licence.

I have written to all FBL holders advising of the review and that any investment in 'open access' fishing activities on the South Coast after 09/12/2013 may not be taken into account in determining access and allocation.

I have also advised FBL holders the review will also consider finfish trapping activities on the South Coast relevant to Fishing Boat Licence Conditions 74 and 192 and Australian herring 'G' net trap fishing conducted under Fishing Boat Licence Condition 42. As with the open access fisheries, FBL holders have also been advised any investment in these fisheries after 09/12/2013 may not be taken into account in determining access and allocation.

The contact officer within the Department of Fisheries in relation to the review is Matt Stadler. He can be contacted on (08) 9845 7400. Further information on the review process will be provided in due course.

STUART SMITH
DIRECTOR GENERAL

9 December 2013

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