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## Western Australian Rock Lobster Fishery Marine Stewardship Council Principle 3

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# **Western Australian Rock Lobster Fishery Marine Stewardship Council Principle 3**

## **Governance – Policy – Fishery Specific Management**

RS Brown and N Blay

(This document has been produced for the recertification of the Fishery)



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## Acronyms

AMM	Annual Management Meeting
CITES	Convention on International Trade in Endangered Species
CMS	Monitoring Control and Surveillance System
COP	Collaborative Operational Plans
DG	Director General of the Department of Fisheries Western Australia
DoF	Department of Fisheries Western Australia
DPaW	Department of Parks and Wildlife
EAR	Ecological Assessment Report
EBFM	Ecosystem Based Fisheries Management
EFAG	Effects of Fishing Advisory Group
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
ERA	Ecological Risk Assessments
ESD	Ecologically Sustainable Development
FMO	Fisheries and Marine Officer
FRDC	Fisheries Research and Development Corporation
FRMA	Fish Resources Management Act 1994
FRMR	Fish Resources Management Regulations 1995
GVP	Gross Value of Production
HSCR	Harvest Strategy and Control Rules 2014 - 2019
IFM	Integrated Fisheries Management
KPI	Key Performance Indicators
LOW	Letters of Warning
MOU	Memoranda of Understanding
MSC	Marine Stewardship Council
PA	Pearling Act 1990
OCP	Operational Compliance Plans
RMAD	Research Management Assessment and Development Plan 2015-2020
RAR	Resource Assessment Report
SAT	State Administrative Tribunal
SLSRG	Sea Lion Scientific Reference Group
SRFAR	Status Reports of the Fisheries and Aquatic Resources of Western Australia
TAC / TACC	Total Allowable Catch / Commercial Catch
VMS	Vessel Monitoring System
WA	Western Australia
WAFIC	Western Australian Fishing Industry Council
WRLC	Western Rock Lobster Council
WCRLMF	West Coast Rock Lobster Managed Fishery
WET	Whale Entanglement Taskforce
WRLF	Western Rock Lobster Fishery

## Introduction

The purpose of this document is to provide an overview of the governance system for fisheries in Western Australia (WA) in general, a more detailed description of the management system for the Western Rock Lobster Fishery (WRLF) and to show how the WRLF management system meets the performance indicators and 80-100 scoring guideposts that form the assessment criteria for Marine Stewardship Council (MSC) certification of the fishery under Principle 3 – Governance, Policy and Fishery Specific Management System.

The western rock lobster (*Panulirus cygnus*) is a species of spiny lobster endemic to the west coast of WA. The species exists in great numbers and has become the basis of one of the world's most successful commercial fisheries while also supporting a vibrant recreational fishery.

Responsibility for managing the resource is vested in the WA Government in accordance with the objectives and provisions of the *Fish Resources Management Act 1994* (FRMA). In particular the Minister for Fisheries (Minister) is responsible for making executive decisions that determine the strategic and structural manner in which the fishery is managed, while the Director General (DG) of the Department of Fisheries Western Australia (DoF) is responsible for the functional management or administration of the fisheries management system.

Establishment, amendment and review of the commercial western rock lobster management system by the Minister occurs on the advice of the DoF and the Western Australian Fishing Industry Council (WAFIC) in consultation with the Western Rock Lobster Council (WRLC). These organisations and the advisory and tasked working groups that can be established under the FRMA by DoF or the Minister to provide advice on specific issues, provide the Minister with advice on all matters relevant to the commercial western rock lobster management system. In order to perform this role effectively it is essential that these organisations be consultative and conduct their business in a manner that is transparent and accountable. In addition, Recfishwest provides advice on the management of the recreational fishery and, where relevant, various forms of consultation are used to include non-extractive stakeholders in the decision making processes (e.g. website information, annual research and management briefings, public comment documents, etc.)

The close partnership between DoF, WAFIC, Recfishwest and the WRLC enables them to perform this role with the aid of a number of established and well-recognised processes designed to constantly scan the environment (in its broad sense) for issues that can and do affect the management system. In particular the National Ecologically Sustainable Development (ESD) Reporting framework, Ecological Risk Assessments (ERA), expert-based groups such as the Sea Lion Scientific Reference Group (SLSRG)<sup>1</sup>, the Effects of Fishing Advisory Group (EFAG),<sup>2</sup> Whale Entanglement Taskforce

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<sup>1</sup> The SLSRG has completed its work. The result was sea lion exclusion devices being fitted into all rock lobster traps used within sea lion exclusion zones (i.e. where at risk pups feed). For further details see the Ecological Assessment Report of the Western Australian Rock Lobster Resource provided for P2.

<sup>2</sup> EFAG has completed its work and the research on the effects of fishing comparing open and closed areas is now in the long term monitoring phase. For further details see the Ecological Assessment Report of the Western Australian Rock Lobster Resource provided for P2.

(WET)<sup>3</sup> and stock assessment and modelling workshops and reviews. These processes are used to provide advice to Government, DoF and stakeholders on the risks posed by fishing the stock and more broadly the ecosystem and to recommend strategies to mitigate those risks or research to investigate them.

In the western rock lobster management system, environmental scanning to identify and manage risk occurs on three levels: strategic – every five years – e.g. ESD reporting and a formal ERA for the fishery, annually through DoF in-house risk assessments and research priority setting (e.g. annual compliance risk assessments), as important issues emerge (e.g. an increase in whale entanglements) and via expert based workshops and reviews. These levels of assessment ensure that there is a system to identify risks and rate them appropriately so that management measures can be adopted early to mitigate them or research projects can be developed to investigate them.

**Note: This document should be read in conjunction with *Governance of the Western Rock Lobster Fishery and Marine Stewardship Council Principle 3 Effective Management* (Fisheries Occasional Publication #96, 2011: [http://www.fish.wa.gov.au/Documents/occasional\\_publications/fop096.pdf](http://www.fish.wa.gov.au/Documents/occasional_publications/fop096.pdf) ) and the Resource Assessment Report (RAR) and Ecological Assessment Report (EAR) provided under P1 and P2 respectively.**

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<sup>3</sup> WET has completed its work of recommending gear modifications (e.g. weighted ropes) to mitigate whale entanglements. The modifications are now a requirement under the fishery's management plan. The modifications appear to have been successful at significantly reducing whale entanglements. WET retains a watching brief. For further details see the Ecological Assessment Report of the Western Australian Rock Lobster Resource provided for P2.

## Principle 3

### PI 3.1.1 Legal and/or customary framework

#### SI (a) Compatibility of laws or standards with effective management

##### **Commonwealth legislation**

Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) - Australia's central piece of environmental legislation, which:

1. regulates any activity with a likely significant impact on a Matter of National Environmental Significance - including World Heritage and National Heritage places, RAMSAR wetlands, listed threatened species and ecological communities, migratory species protected under international agreements and Commonwealth marine areas; and
2. ensures compliance with obligations under international treaties and conventions (e.g. the Convention on International Trade in Endangered Species (CITES) and the Biodiversity Convention). <http://www.environment.gov.au/epbc>

State-governed fisheries from which products are exported are required to satisfy the Australian Government requirements for a demonstrably ecologically sustainable fishery. This assessment is conducted against the principles and objectives outlined in the Guidelines for the Ecologically Sustainable Management of Fisheries - Edition 2 (the guidelines), which is designed to ensure a strategic and transparent way of evaluating the ecological sustainability of fishery management arrangements of export fisheries. See the guidelines at:

<http://www.environment.gov.au/marine/publications/guidelines-ecologically-sustainable-management-fisheries>

The ecological assessment of the West Coast Rock Lobster Managed Fishery (WCRLMF): Final Application to the Australian Government Department of the Environment and Heritage - Against the Guidelines for the Ecologically Sustainable Management of Fisheries - For Consideration Under Part 13A of the EPBC Act (2004) can be viewed at:

<http://www.environment.gov.au/marine/fisheries/wa/rock-lobster>

##### **Offshore Constitutional Settlement**

In accordance with the Offshore Constitutional Settlement 1995, DoF's management responsibilities extend seaward beyond the three nautical mile limit of the State to the 200 nautical mile limit of the Australian Fishing Zone. See:

[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp077.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp077.pdf)

##### **State legislation "Overview"**

Within WA, DoF assists the Minister for Fisheries in the administration of the following State acts and regulations:

- Fish Resources Management Act 1994 (FRMA);
- Fish Resources Management Regulations 1995 (FRMR);
- Pearling Act 1990 (PA);

- Pearling (General) Regulations 1991;
- Fisheries Adjustment Schemes Act 1987;
- Fishing and Related Industries Compensation (Marine Reserves) Act 1997; and
- Fishing Industry Promotion Training and Management Levy Act 1994.

**Note:** The Aquatic Resource Management Bill 2015 is currently before Parliament and, once passed, will establish the new Aquatic Resource Management Act as the central piece of WA legislation with respect to aquatic resources. It will replace both the FRMA and PA.

DoF's website provides a summary of the State's Fisheries legislation at:

<http://www.fish.wa.gov.au/About-Us/Legislation/Pages/default.aspx>

and a portal to view legislation on the State Law Publisher's website at:

[http://www.fish.wa.gov.au/About-Us/Legislation/Western\\_Australian\\_Fisheries\\_Legislation/Pages/default.aspx](http://www.fish.wa.gov.au/About-Us/Legislation/Western_Australian_Fisheries_Legislation/Pages/default.aspx)

For an overview of reform in fisheries and aquatic resource management during the period 2008-2012 see:

<https://www.erawa.com.au/cproot/11676/2/Department%20of%20Fisheries%20-%20Public%20Submission%20-%20Inquiry%20into%20Microeconomic%20Reform%20Issues%20Paper.pdf>

The FRMA is the primary instrument for fisheries management in WA and provides for the creation of subsidiary legislation, in the form of Regulations, Orders, Management Plans, Ministerial Policy Guidelines and Policy Statements. It can be viewed at:

[https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28520P/\\$FILE/Fish%20Resources%20Management%20Act%201994%20-%20\[05-a0-00\].pdf?OpenElement](https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28520P/$FILE/Fish%20Resources%20Management%20Act%201994%20-%20[05-a0-00].pdf?OpenElement)

Fisheries regulations are set out in the FRMR, which can be viewed at:

[https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28503P/\\$FILE/Fish%20Resources%20Management%20Regulations%201995%20-%20\[13-h0-00\].pdf?OpenElement](https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28503P/$FILE/Fish%20Resources%20Management%20Regulations%201995%20-%20[13-h0-00].pdf?OpenElement)

### **State subsidiary legislation:**

Fishery Management Plans in WA (such as the West Coast Rock Lobster Managed Fishery Management Plan 2012, see link below) set out the operational rules that control and manage commercial fishing activities. Specifically, the fishery's management plan provides the power (pursuant to section 58 of the FRMA) to issue and restrict the number of authorisations and regulate other conditions and grounds related to fishing. There is also the power to set the capacity of the fishery under a management plan (under section 59). See the State Law Publishers website for all WA fisheries management plans at:

<https://www.slp.wa.gov.au/statutes/subsiduary.nsf/FisheriesT?OpenPage&Start=1>

The WCRLMF is managed by a Total Allowable Commercial Catch (TACC) system with some input controls. The unitisation of the fishery, and the allocation of kilograms of rock lobsters to those units allows for transfers between fishers with market forces to determine the most efficient use of licences and catch entitlements. This is known as an individually transferable quota management



system. The capacity of the fishery is specified in a fishery management plan under section 59 of the FRMA and is determined each year by DoF's DG see annual TACC setting information at: [http://www.fish.wa.gov.au/Documents/rock\\_lobster/wrl\\_notice\\_board/TACC\\_consultation.pdf](http://www.fish.wa.gov.au/Documents/rock_lobster/wrl_notice_board/TACC_consultation.pdf)).

Other management arrangements in WCRLMF include:

- the protection of females in breeding condition,
- a minimum carapace length,
- gear controls – including escape gaps and a limit on the volume of pots (significant in controlling harvest rates),<sup>4</sup>
- area closures, and
- gear modifications to protect sea lions, and whales.

The WCRLMF Management Plan can be viewed at:

[https://www.slp.wa.gov.au/statutes/subsidiary.nsf/0/2B3A7C7BF6ED718D48257FBD00218A24/\\$file/43.8+wcrlmfp+2012+-+24.05.16.pdf](https://www.slp.wa.gov.au/statutes/subsidiary.nsf/0/2B3A7C7BF6ED718D48257FBD00218A24/$file/43.8+wcrlmfp+2012+-+24.05.16.pdf)

**Exemptions:** under clause 7 of the FRMA can be granted by the Minister. Examples of exemptions for the WCRLMF are provided in Appendix 1.

**Overarching policies include:**

- DoF's Strategic Plan (2016-2020) sets out DoF's high level objectives for managing WA's fisheries. See: [http://www.fish.wa.gov.au/Documents/corporate\\_publications/strategic\\_plan\\_2016-2020.pdf](http://www.fish.wa.gov.au/Documents/corporate_publications/strategic_plan_2016-2020.pdf)
- Fish Plan, which is conducted according to internationally recognised principles of Ecosystem Based Fisheries Management (EBFM), is the guiding document that supports DoF's planned and structured approach to the sustainable management of all aquatic resources within WA. It includes the work DoF undertakes on broader ecosystem monitoring and management alongside that relating to the various fish resources harvested within specific capture fisheries. Fish Plan acknowledges that specific capture fishery resources are dependent on sound management of the broader ecosystems that support them, which may be subject to a range of both fishing and non-fishing pressures (e.g. environmental changes and/or non-fishing human activities). The broad aim of Fish Plan remains to provide greater clarity, within and beyond DoF, of the scheduled work it plans to undertake over a five year time-frame on wild-stock resources. Fish Plan is provided as a separate confidential document.
- In 2002, DoF published *Policy for the Implementation of Ecologically Sustainable Development for Fisheries and Aquaculture within Western Australia* (Fisheries Management Paper 157), which helped apply and implement ESD principles within a fisheries context. The policy is consistent with other relevant state, national and international treaties and instruments. See: [http://www.fish.wa.gov.au/Documents/management\\_papers/fmp157.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp157.pdf)
- The *Western Australian Government Fisheries Policy Statement* (2012) sets out DoF's approach to sustainable resource management, fisheries and aquaculture development and growth, and appropriate structures and processes to ensure good governance. See:

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<sup>4</sup> Please note DoF is currently amending the rock lobster pot specifications to simplify the rules as most aspects of the exploitation rate are now controlled by the TACC.

[http://www.fish.wa.gov.au/Documents/corporate\\_publications/wa\\_govt\\_fisheries\\_policy\\_statement.pdf](http://www.fish.wa.gov.au/Documents/corporate_publications/wa_govt_fisheries_policy_statement.pdf)

- The *Harvest Strategy Policy and Operational Guidelines for the Aquatic Resources of Western Australia* (Fisheries Management Paper 271, 2015) outlines operational objectives, performance indicators, thresholds and reference levels and harvest control rules for WA's fisheries. Additionally, it covers sectoral allocation and strategies for dealing with unacceptable risks to other species. See:  
[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp271.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp271.pdf)
- The *West Coast Rock Lobster Harvest Strategy and Control Rules 2014 - 2019* (Fisheries Management Paper 264, 2014) outlines the operational objectives, performance indicators, threshold and reference levels and harvest control rules for the WCRLMF. It also includes allocation between the commercial and recreational sector. See:  
[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp264.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp264.pdf)
- The *Integrated Fisheries Management - Government Policy* (2009) sets out the WA Government's resource sharing process for ensuring sustainable management of WA's fisheries. Note that this policy is tailored and applied to fisheries for which allocation issues may arise in fisheries with significant commercial and recreational components, such as the WCRLMF. See:  
[http://www.fish.wa.gov.au/Documents/ifm/IFMGovtPolicy\\_2009.pdf](http://www.fish.wa.gov.au/Documents/ifm/IFMGovtPolicy_2009.pdf)

DoF is in the process of developing an Aquatic Biodiversity Policy defining DoF's role, responsibilities and jurisdiction in the management of the State's aquatic biodiversity. Key focus areas of the policy will be:

- retained species,
- non-retained species,
- listed species,
- fish habitats and
- ecosystem processes.

DoF has also developed a Guideline for stakeholder engagement on aquatic resource management related processes, which can be found at:

[http://www.fish.wa.gov.au/Documents/occasional\\_publications/fop131.pdf](http://www.fish.wa.gov.au/Documents/occasional_publications/fop131.pdf)

### **Fishery-specific policies**

West Coast Rock Lobster Harvest Strategy and Control Rules 2014 – 2019 (2014)

[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp264.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp264.pdf)

*West Coast Rock Lobster Managed Fishery Management Plan 2012*

[https://www.slp.wa.gov.au/statutes/subsidiary.nsf/0/2B3A7C7BF6ED718D48257FBD00218A24/\\$file/43.8+wcrlmfmp+2012+-+24.05.16.pdf](https://www.slp.wa.gov.au/statutes/subsidiary.nsf/0/2B3A7C7BF6ED718D48257FBD00218A24/$file/43.8+wcrlmfmp+2012+-+24.05.16.pdf)

### **Departmental Key Performance Indicators (KPI)**

The outcomes of DoF's services are measured by a set of KPI's, a number of which are designed to measure the extent to which DoF has achieved its goal of conserving and sustainably developing the State's aquatic resources. The performance of DoF against the KPI's is assessed annually and the

results are reported in DoF's Annual Report to Parliament. See: <http://www.fish.wa.gov.au/About-Us/Publications/Pages/Annual-Report.aspx>

### **Collaboration / coordination with other departments**

In cases where cross-jurisdictional issues tend to be ongoing and cooperation between departments/portfolio's is required in order to meet management objectives, the WA Government will typically forge a platform for collaboration between departments and other stakeholders through the establishment of an interdepartmental committee. For example DoF's interdepartmental committee with the Department of Parks and Wildlife (DPaW) regarding WA's marine reserves.

For more specific and complex issues that require an urgent solution, the WA Government may initiate a Whole of Government strategic project, typically led by the Department of Premier and Cabinet. This approach can be particularly successful in the settlement of Native Title claims in areas with significant ecological assets, such as in the case of RAMSAR-listed Roebuck Bay. As part of this project, an agreement was reached with the two commercial gillnet licensees operating in the area which led to the purchase of the existing licences. See:

[https://www.dpaw.wa.gov.au/images/documents/parks/management-plans/20150614\\_yawuru\\_nagulagun\\_marine\\_park\\_web\\_mike-edit.pdf](https://www.dpaw.wa.gov.au/images/documents/parks/management-plans/20150614_yawuru_nagulagun_marine_park_web_mike-edit.pdf)

In addition to the above, DoF regularly partakes in or pursues the establishment of cooperative arrangements in order to coordinate and/or clarify procedures and protocols between Government Departments. These may take the form of Memoranda of Understanding (MOU's), Collaborative Operational Plans (COP's) or other types of agreements. Examples are:

- a MOU with the Commonwealth Department of the Environment to facilitate and formalise procedures associated with the reporting of interactions with listed species (currently under development); and
- the collaborative management arrangements between the DPaW and DoF as outlined in a MOU and additionally facilitated through an Interdepartmental Committee (Terms of Reference are in Schedule 1 of the MOU) and the development of COPs for each of the State's marine park and reserves. The relevant documents are available on request.

### **Licensing / administration framework of the fishing industry in Western Australia**

#### **An overview**

Many of WA's commercial fisheries are now either fully managed or under some form of limited management. Fisheries are managed through a series of legislated plans, regulations, orders and licence conditions (see

[http://www.fish.wa.gov.au/About-Us/Legislation/Western\\_Australian\\_Fisheries\\_Legislation/Pages/default.aspx](http://www.fish.wa.gov.au/About-Us/Legislation/Western_Australian_Fisheries_Legislation/Pages/default.aspx)).

These have been / are developed in conjunction with industry, peak bodies, associations and community groups. Communications are managed through meetings and notices, see examples on the WRLF Industry Notice Board at:

<http://www.fish.wa.gov.au/Fishing-and-Aquaculture/Commercial-Fishing/Commercial-Fishing-Management/Pages/Industry-Notice-Board.aspx> ).

A Vessel Monitoring System (VMS) is used in many of WA's major commercial fisheries. VMS is a satellite-linked monitoring system that regularly provides data such as the location, course and speed of monitored vessels to VMS officers at DoF's Marine Operations Centre in Fremantle. This information allows DoF to accurately and efficiently monitor such things as adherence to catch entitlement allocations, seasonal fishing closures and boundaries.

Operators in commercial fisheries and aquaculture in WA must be licensed by DoF. Licence fees ensure an appropriate return to the community for a degree of exclusive access to community resources (fish or water) for commercial purposes. Revenue from access fees can only be used for the purposes set out in the Fisheries Research and Development Account (established under the FRMA), which covers commercial fishing and aquaculture management, enforcement, education, and research and monitoring of fishing activity. Funds in the Account cannot be used for recreational fishing.

The funds for managing the WCRLMF each financial year come from licence fees, State Government Consolidated Revenue, and for research, from the Fisheries Research and Development Corporation (FRDC).

#### **Background information on revenue raising through licence fees**

Funding Reform Decisions of Government (Ministerial Policy Guideline 21, 2010) is a guideline to assist the DG and DoF personnel in undertaking functions relating to the determination of the Gross Value of Production (GVP) of fisheries for the purpose of setting access fees for commercial fisheries (and other aquatic resource-related licence and lease fees). The access fee is equivalent to 5.75 % of the average GVP over 3 years of the respective commercial fishery. This model has improved flexibility for resourcing priority management needs and provides equality in how much licensees pay in access fees. It has also delivered greater certainty of funding for DoF and access rights for licensees. To view the guideline go to:

[http://www.fish.wa.gov.au/Documents/ministerial\\_policy\\_guidelines/fmpg021.pdf](http://www.fish.wa.gov.au/Documents/ministerial_policy_guidelines/fmpg021.pdf)

#### **Examples of published research underpinning WA's aquatic resources management framework**

DoF has played a global lead role in the application of ESD principles within a fisheries context and in implementing a comprehensive EBFM framework. This is demonstrated by a number of key collaborative initiatives involving DoF's Executive Director of the Research Division Dr Rick Fletcher and fellow researchers and the associated scientific and fisheries policy publications, a small selection of which is provided below:

- *Policy for the Implementation of Ecologically Sustainable Development for Fisheries and Aquaculture within Western Australia* (Fisheries Management Paper 157, 2002).  
[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp157.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp157.pdf)
- *National ESD Reporting Framework for Australian Fisheries: The 'How To' Guide for Wild Capture Fisheries* (FRDC publication, 2002).  
[http://www.fisheries-esd.com.au/a/pdf/WildCaptureFisheries\\_V1\\_01.pdf](http://www.fisheries-esd.com.au/a/pdf/WildCaptureFisheries_V1_01.pdf)
- *Conceptual Models for Ecosystems Based Fisheries Management in Western Australia* (Fisheries Research Report 194, 2009).  
[http://www.fish.wa.gov.au/Documents/research\\_reports/frr194.pdf](http://www.fish.wa.gov.au/Documents/research_reports/frr194.pdf)

- *Ecosystems Based Fisheries Management case study report - West Coast Bioregion* (Fisheries Research Report 225, 2011).  
[http://www.fish.wa.gov.au/Documents/research\\_reports/fr225.pdf](http://www.fish.wa.gov.au/Documents/research_reports/fr225.pdf)
- *Resource Assessment Framework for Finfish Resources in Western Australia* (Fisheries Occasional Publication 85, 2011).  
[http://www.fish.wa.gov.au/documents/occasional\\_publications/fop085.pdf](http://www.fish.wa.gov.au/documents/occasional_publications/fop085.pdf)
- *Review and refinement of an existing qualitative risk assessment method for application within an ecosystem-based management framework* (ICES Journal of Marine Science, 2015).  
<http://icesjms.oxfordjournals.org/content/early/2014/09/10/icesjms.fsu142>

DoF is also in the process of developing an *Aquatic Biodiversity Policy* defining its role, responsibilities and jurisdiction in the management of the State's aquatic biodiversity. Key focus areas: retained species, non-retained species, listed species, fish habitats and ecosystem processes.

See also documents listed on DoF's ESD web page at:

<http://www.fish.wa.gov.au/About-Us/Publications/Pages/Ecologically-sustainable-development.aspx>

### **Annual fisheries assessment**

DoF provides the community with an annual update on the state of the fish stocks and aquatic resources of WA through the annual publication of Status Reports of the Fisheries and Aquatic Resources of Western Australia (SRFAR). This document outlines the most recent assessments of the cumulative risk status for each of the aquatic resources (assets) within WA's six bioregions using an EBFM approach. See: <http://www.fish.wa.gov.au/About-Us/Publications/Pages/State-of-the-Fisheries-report.aspx>

### **SI (b) Resolution of disputes**

Dispute resolution for decisions made under the FRMA is provided for in Part 14 – Right to object or apply for review (s146 - s152) of the Act.<sup>5</sup> Under s149 an affected person may apply to the State Administrative Tribunal (SAT) for a review of certain decisions. Criminal offences are dealt with by the Magistrates Courts. SAT decisions must be carried out by DoF under section 152 of the FRMA and section 29(5) of the State Administrative Tribunal Act 2004<sup>6</sup> (SAT Act). The *Main Objectives* of the Tribunal are set out in Section 9 of the SAT Act.

The decisions of SAT reviews of administrative decisions made by DoF can be found at: [http://decisions.justice.wa.gov.au/SAT/SATdcns.nsf/xpViewAll.xsp?searchValue=\(%5BCaseName%5DContains%20\(Fisheries\)\)](http://decisions.justice.wa.gov.au/SAT/SATdcns.nsf/xpViewAll.xsp?searchValue=(%5BCaseName%5DContains%20(Fisheries))).

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<sup>5</sup> The FRMA can be viewed at:

[https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28520P/\\$FILE/Fish%20Resource%20Management%20Act%201994%20-%20\[05-a0-00\].pdf?OpenElement](https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28520P/$FILE/Fish%20Resource%20Management%20Act%201994%20-%20[05-a0-00].pdf?OpenElement)

<sup>6</sup> The SAT act can be viewed at:

[https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28418P/\\$FILE/State%20Administrative%20Tribunal%20Act%202004%20-%20\[04-a0-00\].pdf?OpenElement](https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28418P/$FILE/State%20Administrative%20Tribunal%20Act%202004%20-%20[04-a0-00].pdf?OpenElement) and SAT annual reports can be found at: [http://www.sat.justice.wa.gov.au/A/annual\\_reports.aspx](http://www.sat.justice.wa.gov.au/A/annual_reports.aspx)

Since the creation of the SAT Act in 2004, the SAT has published 15 review decisions regarding DoF's administration decisions, i.e. just over one per year. The very low number of review decisions made by SAT and the high proportion of these (over 90%) that were consistent with DoF's initial decisions, indicate that DoF has robust and efficacious administrative and legal processes that stand up to independent external scrutiny.

Up to the 30 June 2016, there had only been one SAT review involving the WCRLMF and it substantially upheld DoF's initial decision.<sup>7</sup>

### **SI (c) Respect for rights**

Under the Commonwealth Native Title Act 1993, the Federal Court of Australia is responsible for the management and determination of all applications relating to native title in Australia. Native title describes the recognition by the Australian legal system of rights and interests of Aboriginal and Torres Strait Islander peoples to land and waters according to their traditional laws and customs.

Under DoF's Customary Fishing Policy (2009), developed with Indigenous groups and stakeholders in other sectors, DoF acknowledges the importance of customary fishing to the continuing Aboriginal cultures in WA, and to ensuring a comprehensive and sustainable integrated fisheries management framework. The policy has been instituted in the FRMA, which provides the 'head powers' required to define and protect customary fishing rights, and the capacity to regulate customary fishing to ensure sustainability of fish stocks. See:

[http://www.fish.wa.gov.au/Documents/customary\\_fishing/customary\\_fishing\\_policy.pdf](http://www.fish.wa.gov.au/Documents/customary_fishing/customary_fishing_policy.pdf)

### **Integrated Fisheries Management**

The Integrated Fisheries Management - Government Policy (2009) sets out the WA Government's resource sharing process as applied to fisheries for which allocation issues may arise between fisheries with significant commercial and recreational components, like the WCRLMF. The Integrated Fisheries Management (IFM) process generates explicit allocations and / or re-allocations to specific sectors using a formal and structured allocation process facilitated by an independent body – the Integrated Fisheries Advisory Allocation Committee (IFAAC). This process has already been completed for western rock lobster, metropolitan abalone fisheries and the West Coast Demersal Scalefish Fishery. See:

<http://www.fish.wa.gov.au/About-Us/Publications/Pages/Integrated-Fisheries-Management.aspx>

for the general IFM allocation papers and the five IFM papers on the WRLF resource. The latest (2006) IFM paper for the WRLF can be found at:

[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp218.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp218.pdf)

It should also be noted that new reallocation mechanisms (informed by the outcomes of a Workshop in 2011) are included in the Aquatic Resources Management Act currently before Parliament. See:

[http://www.fish.wa.gov.au/Documents/occasional\\_publications/fop094.pdf](http://www.fish.wa.gov.au/Documents/occasional_publications/fop094.pdf)

## **PI 3.1.2 Consultation, roles and responsibilities**

### **SI (a) Roles and responsibilities**

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<sup>7</sup>See the SAT decision involving the commercial fishing licence of a fisher operating in the WCRLMF at: <http://decisions.justice.wa.gov.au/SAT/SATdcns.nsf/%24%24OpenDominoDocument.xsp?documentId=3C3E78D40A84D1E8482579980006A1CF&action=openDocument>.

The WA Government's commitment to consultation and engagement in fisheries management is set out in the Western Australian Government's Fisheries Policy Statement of 2012. The management system of fisheries in WA has effective consultation processes with stakeholders who are clearly identified in DoF's Annual Report and include:

- Commercial;
- recreational and customary fishers;
- pearling and aquaculture industries;
- charter fishing operators;
- fish processors;
- environmental groups, businesses and communities directly and indirectly dependent upon fishing; and
- offshore industries and other state, national and international government agencies and tertiary institutions.

The roles and responsibilities of organisations who are involved in the management process (such as DoF, the Department of the Environment, DPaW, WAFIC and individuals (e.g. Minister) are well understood with key powers explicitly defined in legislation (e.g. the FRMA) or relevant policy statements and agreements. DoF also has MOUs in place with WAFIC/WRLC and Recfishwest to continue the commitment from DoF to engage in effective consultation with these major stakeholders (copies of the MOUs can be provided on request). The Fishery Policy statement can be found at:

[http://www.fish.wa.gov.au/Documents/corporate\\_publications/wa\\_govt\\_fisheries\\_policy\\_statement.pdf](http://www.fish.wa.gov.au/Documents/corporate_publications/wa_govt_fisheries_policy_statement.pdf)

### **SI (b) Consultation processes**

All State-managed fisheries from which product is exported undergo assessment under the EPBC Act to ensure the fishery is managed in an ecologically sustainable way and in compliance with Australia's obligations under CITES and the Biodiversity Convention Act. Once the Minister is confident all requirements are met and he has considered all issues raised during the mandatory public consultation process, he may decide to declare the fishery an approved Wildlife Trade Operation for a maximum duration of three years. In cases where there is a very high degree of confidence in the sustainability of the fishery and compliance with international conventions, the species caught by the fishery may be included on the List of Exempt Native Specimens, and be exempt from the export regulations of the EPBC Act for a five or 10 year period.

DoF has completed a Guideline for stakeholder engagement on aquatic resource management related processes, which is consistent with and builds on the statutory consultation requirements under the FRMA and does not affect the consultation arrangements outlined in the existing Service Level Agreements with WAFIC and Recfishwest. The Guideline sets out the various methods / processes that DoF uses to identify stakeholders and how, depending on the issue, to engage with them (e.g. formal consultation meetings, tasked working groups, panels, discussion papers, website information, etc.). For details of the Guideline see the link provided at 3.1.1 Overarching policies.

See Appendix 2 for an update of the Client Action for the condition associated with P3.1.2.

### **SI (c) Participation**



DoF works closely with national, state and regional partners and other stakeholders in every aspect of its business and provides opportunities for involvement through a number of different processes. These include meeting directly with stakeholders in such forums as:

- Annual Management Meetings (AMM);
- Bi-monthly meeting between the DG of DoF and the WAFIC and the WRLC CEOs;
- Meeting with members of the Ministerial Whale Entanglement Taskforce;
- Non-extractive stakeholder briefing and meeting held on 17 November 2015 (see Invitation and Agenda at Appendix 3); and
- Stakeholder Forum Meetings with the DG of DoF, WAFIC and Recfishwest.

### **PI 3.1.3 Long term objectives**

#### **SI (a) Objective**

The WA Government has set a long term overarching objective for WA's aquatic resources that is underpinned by the principle of social and environmental responsibility to ensure that economic activity associated with them is managed in a socially and environmentally responsible manner for the long-term benefit of the State. These objectives are explicit in management policy and are also set out in fisheries legislation. The fisheries management legislation and policy in WA has clear long-term objectives to guide decision-making that are consistent with MSC Principles and Criteria and incorporate the precautionary approach. These objectives are explicit in fisheries legislation and are required by management policy.

Sections 3 and 4a of the FRMA set out the overarching long-term sustainability strategy for fisheries and the aquatic environment in WA. The FRMA is also supported by a number of strategic (e.g. Strategic Plan 2016-2020) and public policy documents (e.g. Fisheries Policy Statement 2012 and Harvest Strategy and Policy Guide Lines for Aquatic Resources of WA 2015 see links below) which further define WA's commitment to management principles consistent with MSC principles 1 and 2 (e.g. ESD and EBFM). DoF's Strategic Plan 2016-2020 sets out clear and explicit long term objectives which include:

- Community and stakeholder benefits: Working together to provide value to, and to be valued by, the community and our stakeholders.
- Sustainability: Sustainably managing WA's aquatic resources and fisheries through a risk-based, dynamic and adaptive approach; and supporting resilient aquatic resources and ecosystems by being responsive to changing conditions and management needs.
- Management excellence: Striving for excellence through strong accountability and governance systems, and effective and efficient practices across all areas of DoF.

See the strategic plan at:

[http://www.fish.wa.gov.au/Documents/corporate\\_publications/strategic\\_plan\\_2016-2020.pdf](http://www.fish.wa.gov.au/Documents/corporate_publications/strategic_plan_2016-2020.pdf),

the fisheries policy statement at:

[http://www.fish.wa.gov.au/Documents/corporate\\_publications/wa\\_govt\\_fisheries\\_policy\\_statement.pdf](http://www.fish.wa.gov.au/Documents/corporate_publications/wa_govt_fisheries_policy_statement.pdf)

and the Harvest Strategy and Policy Guide Lines for Aquatic Resources of Western Australia at:

[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp271.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp271.pdf)



The long term ecological objectives of the WCRLMF are consistent with the overarching objective of the FRMA and are clearly defined in the fishery's Harvest Strategy and Control Rules (HSCR), see the link at PI 3.2.1 below).

#### **PI 3.1.4 Incentives for sustainable fishing**

##### **SI (a) Incentives**

WA fisheries legislation, including that governing the WCRLMF, has policies and principles that provide social and economic incentives to fishers to fish sustainably and encourage a sense of stewardship towards the resource. These incentives include policies that attempt to provide stability and / or security for fishers by:

- providing strategic or statutory management planning to give certainty about rules and goals of management;
- providing clarification of roles, rights and responsibilities of various stakeholders (e.g. the WRLC is recognised by the WA Government as a key source of coordinated industry advice for the commercial rock lobster fishing industry);
- providing for a participatory approach to management and research with well-defined management processes like the HSCR for the WCRLMF; and
- the provision of secure access rights under the WCRLMF Management Plan together with a formal system of resource allocation (IFM) between commercial and recreational fishers.

The above provide an environment that encourages stewardship of the resource by commercial fishers and a commitment to long-term sustainability to protect their investment. It also enables the industry to optimise economic return and lifestyle benefits that support regional communities.

#### **PI 3.2.1 Fishery-specific objectives**

##### **SI (a) Objectives**

Explicit, well defined and measurable long term management objectives that apply to the aquatic resources and fisheries of the West Coast Bioregion, including the WCRLMF, are discussed under PI 3.1.3 Long Term Objectives. Performance against these objectives is measured annually and is available in SRFAR (e.g. assessments against target catch and effort, stock assessments, EBFM risk assessments and economic and social indicators) and DoF's Annual Report (e.g. effectiveness and efficiency indicators).

The specific management systems for the WCRLMF, together with the rules for the recreational fishing sector are aimed at achieving stable and sustainable management of the western rock lobster resource and its associated ecosystems in the long term. The sustainability objectives for the WCRLMF are set out in the fishery's HSCR that can be found at:

[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp264.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp264.pdf)

A comprehensive list of the publications that underpin the fishery specific objectives of the WRLF can be found on DoF's WRLF MSC web page at:

[http://www.fish.wa.gov.au/AboutUs/Publications/Marine\\_Stewardship\\_Council/Pages/Western\\_Rock\\_Lobster\\_Fishery\\_MSC.aspx](http://www.fish.wa.gov.au/AboutUs/Publications/Marine_Stewardship_Council/Pages/Western_Rock_Lobster_Fishery_MSC.aspx)

### **PI 3.2.2 Decision-making processes**

#### **SI (a) Decision-making processes**

As mentioned under PI 3.1.2 Consultation, Roles and Responsibilities, regular stakeholder engagement underpins the fishery-specific decision-making process. Advice and recommendations regarding research, management and compliance is sought via tasked working groups, reference groups, AMMs, issue specific meetings and public discussion papers.

Examples of recent decision making processes for the WCRLMF include:

- *Operational and Compliance Elements for a New Management Plan for the WCRLMF. A discussion Paper* (2012):  
[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp255.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp255.pdf)
- *WCRLMF Harvest Strategy and Decisions Rule Framework Under a Quota Management Framework. A Discussion Paper* (2012):  
[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp254.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp254.pdf)
- WCRLMF HSCR (2014):  
[http://www.fish.wa.gov.au/Documents/management\\_papers/fmp264.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp264.pdf)
- *The effectiveness of mitigation measures to reduce interactions between commercial fishing gear and whales:*  
[http://www.fish.wa.gov.au/Documents/research\\_reports/fr267.pdf](http://www.fish.wa.gov.au/Documents/research_reports/fr267.pdf)

#### **SI (b) Responsiveness of decision-making processes**

The governance system allows timely response in instances where management changes need to be applied to alleviate unacceptable risks to stocks. The timing of provision of scientific advice on the status of stocks is concomitant with the risk levels for the western rock lobster. However, once advice is received there is a prompt process to review this advice for scientific rigour and develop management actions. Under the WCRLMF Management Plan, the DG of DoF has the power to prohibit fishing in any part of the fishery. There is also power for the DG to determine (or alter) the capacity of the fishery (TAC/TACC). Decisions such as these are transparent and based on relevant research, monitoring, evaluation and consultation, which is outlined under the harvest strategy for the fishery ([http://www.fish.wa.gov.au/Documents/management\\_papers/fmp264.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp264.pdf))

Examples of the responsiveness of the decision making process can be found in the WRLF ERA report (2013), see: [http://www.fish.wa.gov.au/Documents/occasional\\_publications/fop118.pdf](http://www.fish.wa.gov.au/Documents/occasional_publications/fop118.pdf)

The second low puerulus settlement workshop, see: [http://www.fish.wa.gov.au/Documents/occasional\\_publications/fop104.pdf](http://www.fish.wa.gov.au/Documents/occasional_publications/fop104.pdf)

For whale mitigation, see *Effectiveness of mitigation measures to reduce interactions between commercial fishing gear and whales*, August 2015 ([Fisheries research report No. 267](#)) and Whale Entanglement Taskforce Meeting Notes – Key Decisions and Action Items (provided to SCS in the Client Report (Appendix 3) for the fourth annual surveillance April 2016).

#### **SI (c) Use of precautionary approach**

Prior to determining a management response to a particular issue to ensure objectives continue to be met, fishery specific decision-making processes include a weight of evidence approach that takes into account all available information such as:

- target species' catch and effort;

- target species' stock status, biology, structure and distribution, spawning stock levels etc.;
- risk to the ecosystem;
- governance framework;
- fishing behaviour; and
- external factors (social considerations, market influences, environmental changes).

This precautionary approach is undertaken in consultation with stakeholders and ensures that all available information is assessed collectively and collaboratively. It also reduces the risk of introducing adverse and unintended consequences to sustainability or economic viability. The resulting management response is more likely to be effective, defensible and commensurate with the level of risk posed by the fishery.

When selecting the harvest strategy indicator and performance levels aimed at achieving biological objectives, the precision of the indicators and performance levels used in the assessments should match the level of precaution used in the management settings. Where the inherent risks to stocks are low, imprecise indicators may be acceptable. Where the inherent risks to stocks are high or the management approach is more 'aggressive', more robust and precise indicators and performance levels are required.

An example of the precautionary approach can be seen in the WCRLMF HSCR where the Sustainability Objective is the primary objective and must be met irrespective of other principles or objectives when setting the TACC. The Sustainability Objective ensures that egg production in the four Breeding Stock Management Areas of the fishery remain above their threshold values for the next five years with a probability greater than 75%. (See the HSCR at: [http://www.fish.wa.gov.au/Documents/management\\_papers/fmp264.pdf](http://www.fish.wa.gov.au/Documents/management_papers/fmp264.pdf))

#### **SI (d) Accountability and transparency of management system and decision-making process**

The management system contains formal reporting mechanisms that provide all interested stakeholders with comprehensive information on fishery performance and management actions and how the management system responded to findings and relevant recommendations emerging from research, monitoring, evaluation and review activity.

As previously discussed, DoF uses processes to identify issues that require measures or strategies to be implemented. Information is provided to stakeholders on a regular basis via:

- AMM's with licensees and other interested parties to provide updates on proposals, outcomes and reviews;
- Direct briefings on proposals, outcomes and reviews with the WRLC, Recfishwest and other stakeholders;
- Direct briefings on proposals, outcomes and reviews with affected staff across DoF;
- Annual reporting through SRFAR and the Annual Report;
- Publications containing management proposals for consultation, research results, tasked working group recommendations and Ministerial decisions; and
- Statutory consultation to amend a management plan or to make a determination around the capacity of a fishery (e.g. TACC for the WCRLMF).

An example for the WCRLMF was the Whale Entanglement Taskforce, comprised of cetacean experts, industry and government representatives, which recommended research, be undertaken on mitigation measures to reduce entanglements. The research resulted in mitigation measures being legislated into the WCRLMF Management Plan.

### **SI (e) Approach to disputes**

DoF acts proactively to avoid disputes through the inclusion of the fishing industry and stakeholders during consultation on key management matters and through its educative approach to inform fishers of fishing rules and regulations. DoF has dedicated community education officers in each of the regions.

Compliance staff working in the field Fisheries and Marine Officers (FMO) are formally appointed pursuant to the FRMA and their powers to enforce fisheries legislation, enter and search premises, obtain information and inspect catches are clearly set out. The FRMA also sets out legal proceedings for offences, evidentiary provisions, forfeiture of gear and fish, additional penalties and serving of infringement notices.

FMO must be closely familiar with the legislation they are responsible for enforcing, and must follow a strict protocol for undertaking their duties and recording information relating to contacts with commercial and recreational fisheries, infringement warnings, infringement notices and prosecution offences.

Disputes regarding statutory validity are dealt with by the Courts, which test the validity of legislation. These decisions are publically available. Examples of these cases include: Shine Fisheries Pty Ltd vs Minister (2002):

<http://decisions.justice.wa.gov.au/supreme/supdcsn.nsf/judgment.xsp?documentId=89CBEA251EC082BB48256B5A000C1635&action=openDocument> and Edgemere Pty Ltd vs Minister for Fisheries & Anor (1997):

<http://decisions.justice.wa.gov.au/supreme/supdcsn.nsf/judgment.xsp?documentId=E2B71DECD36F4C1B48256497004CD3F9&action=openDocument>.

### **PI 3.2.3 Compliance and enforcement**

#### **SI (a) Monitoring Control and Surveillance implementation**

As part of its Monitoring, Control and Surveillance System (CMS), DoF has established a process of implementing Operational Compliance Plans (OCP) for key commercial and recreational fisheries in each of the three compliance management areas located in the West and South Coast Bioregions:

- Mid-West (27°S to 31°S);
- Metropolitan (31°S to 33°S); and
- South West and South Coast (33°S to 129°E).

Each OCP is informed by regular compliance risk assessments that include compliance, research and management staff, as well as licence holders and other stakeholders. The risk assessment process relies on a weight-of-evidence approach considering information available from specialist units,

trends and issues identified by local staff and DoF priorities set by the Aquatic Resource Management Division through Fish Plan.

Each OCP is reviewed and updated following an associated compliance risk assessment. The compliance activities associated with the OCPs and compliance strategies are prioritised in accordance with risk, budget and resourcing considerations. See Appendix 4 for WRLF commercial and recreational compliance data.

### **SI (b) Sanctions**

There are four tiers of enforcement measures applied by FMOs when an offence is detected including:

- Prosecutions;
- Letter of warning (which may be issued where an offence may have been committed but detected outside of the 45 day period where an infringement can be issued, noting there may not be a public interest in prosecution but this still formally records the detected offence and the offender appropriately notified and warned);
- Infringement notices; and
- Infringement warnings.

FMOs have the autonomy to issue an infringement warning after detecting a minor offence that has resulted from a lack of understanding of the rules or an error of judgment (e.g. wrong species identification).

Infringement notices are used to apply a modified penalty and are usually used in cases where the offence does not warrant prosecution action which is likely to end up in court. Modified penalties are prescribed in Schedule 12 of the FRMR and can only be applied to particular sections of the FRMA (including contravening a provision of a Management Plan) and the FRMR. A copy of the infringement notice is provided in Schedule 14 of the FRMR. If there is a dispute over an infringement notice, the offender can request the matter be heard in court.

Letters of Warning (LOW) is an available sanction that achieves a formal record of an offence (usually commercial) where a prosecution may be considered unduly severe under the circumstances. A LOW formally advises the offender of their actions and seeks future 'voluntary' compliance.

There are many offences by commercial and recreational fishers whom might offend in a commercial way. These include (but are not limited to) offences for fish processing, aquaculture, interference with gear, documentation offences, breach of a licence condition and Management Plan offences. More serious offences have severe penalties for contravening certain sections of the FRMA, for example in the WCRLMF, harvesting egg bearing females or undersize WRL and quota violations. See sections 52 and 222 of the FRMA and Division 5 Requirements regarding rock lobsters for examples of penalties.<sup>8</sup>

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<sup>8</sup> Sections 52 and 222 of the FRMA can be found at:

[https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28856P/\\$FILE/Fish%20Resource%20Management%20Act%201994%20-%20\[05-c0-00\].pdf?OpenElement](https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28856P/$FILE/Fish%20Resource%20Management%20Act%201994%20-%20[05-c0-00].pdf?OpenElement) and Division 5 of the FRMR regarding rock lobsters can found at:

### **SI (c) Compliance**

The management system provides a number of incentives to fish both lawfully and sustainably. This combined with severe penalties and a comprehensive monitoring, control and surveillance system as described above, provides a robust framework for ensuring that licensed commercial fishers (e.g. in the WCRLMF) comply with the fishery management systems under which they operate.

When considering the number of offences detected in each management system (e.g. under specific management plans), it is also important to note the:

- number of commercial and (estimated) recreational fishers undertaking fishing activities and their level of operation and participation;
- level of compliance coverage (both in the field and via VMS) delivered by Department staff; and
- targeted compliance operations and surveillance, which can vary from year to year.

See WRLF commercial and recreational compliance data provided at Appendix 4.

### **SI (d) Systematic non-compliance**

DoF uses a weight of evidence approach to review levels of compliance by commercial (and recreational) fishers that combines:

- Ongoing evidence of a sustainable fishery;
- Assessment of risk to a particular fish stock or aquatic resource posed by a commercial or recreational fishery;
- Outputs arising from the CMS system:
  - Adequacy of commercial compliance coverage including VMS;
  - Number of commercial fishing offences and successful commercial fishery prosecutions, dependent on whether compliance is undertaken in a random or targeted manner; and
  - Average commercial non-targeted compliance rate;
- Number of reports of illegal activity by commercial and recreational fishers logged by Fishwatch and from intelligence gathered by FMOs;
- General level of industry support / buy-in around fishing rules; and
- Level of compliance education and communications during commercial fishery stakeholder engagement (at least annually).

The average non-targeted compliance rate by commercial fishers between 2009/10 and 2012/13 is estimated at 91% and 93% for the South and West Coast Bioregions, respectively. See Appendix 4 for WRLF specific commercial and recreational compliance data.

It is accepted that zero non-compliance cannot be achieved in practice. Nevertheless, based on the weight of evidence approach detailed above, there is no evidence of systematic non-compliance by licensed operators within the commercial fisheries of the West and South Coast Bioregions (including the WCRLMF), or that the existing very low level of non-compliance by commercial fishers is a risk to fish stocks.

### **PI 3.2.4 Monitoring and management performance evaluation**

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[https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28503P/\\$FILE/Fish%20Resources%20Management%20Regulations%201995%20-%20\[13-h0-00\].pdf?OpenElement](https://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:28503P/$FILE/Fish%20Resources%20Management%20Regulations%201995%20-%20[13-h0-00].pdf?OpenElement)

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### **SI (a) Evaluation coverage**

DoF has a number of processes in place for monitoring and evaluating the performance of the WCRLMF management system against its objectives. An annual review of the fishery's performance is undertaken by Departmental research, management and compliance staff, with outcomes used to assess the extent to which the fishery's management system has met both the long- and short-term objectives. Performance against the short-term (annual) objectives is measured using the performance indicators, reference levels and management control rules that are explicitly identified in the WCRLMF HSCR. Where the fishery has failed to meet the short-term objective (i.e. is at or below the threshold reference level for a particular component), a review of the fishery operations, including the management system is triggered. In the case that the review indicates that the management system is not achieving the desired objective, appropriate management action will be undertaken to reduce fishing impacts to an acceptable level.

The annual fishery performance outcomes are provided to licence holders and stakeholders at the AMMs. DoF is also required to report to Parliament on the stock assessment outcomes for all target species, with this information provided in DoF's Annual Report. The fishery performance outcomes for target and retained non-target species, bycatch, endangered, threatened and protected species, habitats and ecosystems is evaluated annually and made publically available in the SRFAR (e.g. Fletcher & Santoro 2014/15 at: <http://www.fish.wa.gov.au/About-Us/Publications/Pages/State-of-the-Fisheries-report.aspx> ).

The effectiveness of the compliance regime is evaluated through periodic risk assessments, revision of OCPs and monitoring and analysis of compliance statistics and trends.

### **SI (b) Internal and / or external review**

The main components of the fishery specific management systems for the WCRLMF that are subject to internal review are as follows: Fish Plan, SRFAR, Management Plans, AMMs, risk assessments and research, HSCR review and compliance reviews. Components of the WCRLMF that are externally reviewed include – Export Approval under the EPBC Act, research and management paper peer review in journals and external Government audit.

See the Governance of the WRLF document for further details of WCRLMF compliance (pgs. 47 to 50) and external reviews of all aspects of rock lobster research and management by committees, working groups, workshops, panels and experts, ERAs, etc. (pgs.42 to 46) at: [http://www.fish.wa.gov.au/Documents/occasional\\_publications/fop096.pdf](http://www.fish.wa.gov.au/Documents/occasional_publications/fop096.pdf)

Updates on external reviews have been provided at previous annual surveillance audits and reassessments and include an ERA (*West Coast Rock Lobster Fishery Ecological Risk Assessment*, September 2013 ([Fisheries occasional publication No. 118](#) ) , ecological effects of fishing ([Fisheries research report No. 254](#) - *Assessing the ecological impact of the western rock lobster fishery in fished and unfished areas*, FRDC Project 2008/013, December 2014.), impacts of low puerulus settlement (*Western Rock Lobster Puerulus Workshop*, May 2011: [Fisheries occasional publication No. 104](#)) and whale entanglements (*Effectiveness of mitigation measures to reduce interactions between commercial fishing gear and whales*, August 2015: [Fisheries research report No. 267](#).)

### **PI 3.2.5 Research Plan**



### SI (a) Research plan

Research on the western rock lobster has been underway for many decades with a large amount having already been completed. This research covers lobster biology, ecology, stock assessment and the examination of fishery and fleet dynamics.<sup>9</sup> The WCRLMF has a research plan in place that addresses the information needs for management and can be found within DoF's Research Management Assessment and Development Plan 2015-2020 (RMAD). The RMAD Plan provides a mechanism to identify and track any gaps in knowledge, resources and expertise, which assists in capacity planning, future funding applications and planning in a broader context. The RMAD Plan is developed by scientists, managers and stakeholders who are involved across the areas of stock status (MSC P1); ecology (MSC P2); and governance, policy and compliance (MSC P3). The RMAD Plan can be viewed at:

[http://www.fish.wa.gov.au/Documents/occasional\\_publications/fop122.pdf](http://www.fish.wa.gov.au/Documents/occasional_publications/fop122.pdf)

In addition to the RMAD Plan, DoF has also developed *Stock Assessment for the West Coast Rock Lobster Fishery* - Fisheries Research Report 217 (2012), which describes the stock assessment process including the biological and economic modelling used for the TACC setting process. See:

[http://www.fish.wa.gov.au/Documents/research\\_reports/fr217.pdf](http://www.fish.wa.gov.au/Documents/research_reports/fr217.pdf)

An updated version of this document, now referred to as the WRLF Resource Assessment Report (RAR), has been provided under P1 and will be published on DoF's website shortly.

### SI (b) Research results

As mentioned under Research Plan above, DoF has developed a document outlining the processes used for setting the TACC – Fisheries Research Report 217. See:

[http://www.fish.wa.gov.au/Documents/research\\_reports/fr217.pdf](http://www.fish.wa.gov.au/Documents/research_reports/fr217.pdf)

See also the updated WRLF RAR provided under P1.

The documents provided under P1 and P3 explain how research results have used to inform the management of the WRLF. For example, the impacts of climate change are assessed in - *Management implications of climate change effect on fisheries in Western Australia, Part 1: Environmental change and risk assessment*, February 2015 ([Fisheries research report No. 260.](#)) and *Management implications of climate change effect on fisheries in Western Australia, Part 2: Case studies*, February 2015 ([Fisheries research report No. 261.](#))

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<sup>9</sup> See [http://www.fish.wa.gov.au/About-Us/Publications/Marine\\_Stewardship\\_Council/Pages/Western\\_Rock\\_Lobster\\_Fishery\\_MSC.aspx](http://www.fish.wa.gov.au/About-Us/Publications/Marine_Stewardship_Council/Pages/Western_Rock_Lobster_Fishery_MSC.aspx) for links to documents associated with MSC P1, 2 and 3.



## Appendix 1

### Examples of Exemptions in the WCRLMF under clause 7 of the FRMA.

Title and Description	Expiry	Link
<b>Setose Exemption</b>  Persons acting under the authority of a West Coast Rock Lobster Managed Fishery Licence to take, possess, consign and sell setose western rock lobster for commercial purposes.	31 October 2016	<a href="http://www.fish.wa.gov.au/Documents/annual_reports/Annual%20Report%202014-15.pdf">http://www.fish.wa.gov.au/Documents/annual_reports/Annual%20Report%202014-15.pdf</a>  Page 204
<b>Minimum operating holding Exemption</b>  To allow West Coast Rock Lobster Managed Fishery licence holders, and those persons acting on their behalf, to operate in the Fishery when the usual entitlement on the licence is less than 600 units.	14 January 2016	<a href="http://www.fish.wa.gov.au/Documents/annual_reports/Annual%20Report%202014-15.pdf">http://www.fish.wa.gov.au/Documents/annual_reports/Annual%20Report%202014-15.pdf</a>  Page 194
<b>Pot usage Exemption</b>  Persons fishing under the authority of a West Coast Rock Lobster Managed Fishery Licence to allow their quota to be caught more efficiently, while also being mindful of the need to mitigate interactions with humpback whales.	30 April 2016	Will be reported in the 2015/16 Annual Report.
<b>Augusta Marina Exemption</b>  To allow masters of authorised boats in the West Coast Rock Lobster Managed Fishery to use the upgraded infrastructure at Augusta Marina to land rock lobster.	14 January 2017	Will be reported in the 2015/16 Annual Report.

## Appendix 2

Update on the client action plan in response to the condition placed on P3.1.2 at the annual audit in March 2016.

Condition P3.1.2	Demonstrate that the consultation process provides opportunity for all interested and affected parties to be involved
<b>Client Action Plan</b>	<p>DoF and WRLC will extend stakeholder participation to provide greater opportunities for interested and affected parties to provide input into management arrangements for the WCRLMF. New processes to be developed:</p> <ol style="list-style-type: none"> <li>1. Annual stakeholder briefing. DoF invited stakeholders to attend a WRLF research and management briefing and discussion forum, on 17 November 2015. The WRLC also provided a briefing on industry issues. The briefings were an opportunity for two way communication and information sharing. Invitations to the briefings went to Department of Parks and Wildlife (for marine protected species and the State Marine Parks that neighbour and overlap with the WRL fishery's operations), Abrolhos Island Management and Advisory Committee, Recfishwest, Conservation Council of WA, World Wildlife Fund, Local Tertiary Institutions (that have an interest), Local Government and community groups (that have an interest), stakeholders registered on the WRLF stakeholder and interested party list.</li> </ol> <p>In future these stakeholders (including non-extractive stakeholders, e.g. NGOs, Local Governments and interested community members) will be invited to attend the comprehensive research, management and compliance briefings that are provide as part of the WCRLMF's AMM's held in Geraldton and Fremantle.</p> <ol style="list-style-type: none"> <li>2. Further to this, DoF will seek to broaden stakeholder participation through providing opportunities for comment and feedback on key fisheries policy matters and initiatives. This will include direct consultation with stakeholders and/or notification of public comment opportunities through DoF's website.</li> </ol> <p>DoF and the Client to provide evidence that the consultation arrangements have been reviewed and new processes implemented to broaden stakeholder consultation.</p>
Prior to Recertification in August/Sept 2017.	DoF and Client to evaluate consultation processes to measure effectiveness and suitability in meeting objectives, and amend if required.

## APPENDIX 3

### WESTER ROCK LOBSTER FISHERY STAKEHOLDER CONSULTATION

#### ANNUAL STAKEHOLDER MEETING

Tuesday 17 November 2015

#### BACKGROUND

In 2000 Western Australia's Western Rock Lobster Fishery became the first fishery in the world to receive Marine Stewardship Council certification and independent recognition as a sustainable and well managed fishery. In early 2015 it celebrated a historic 15 years of continuous certification and will commence its 3<sup>rd</sup> recertification process in early 2016.<sup>10</sup>

As part of the process of ensuring that the Western Rock Lobster Fishery is achieving world's best practice with regard to stakeholder engagement, the Department of Fisheries (<http://www.fish.wa.gov.au/>) and the Western Rock Lobster Council (<http://wrlc.com.au/>) are jointly convening a stakeholder consultation meeting. The meeting will consist of a briefing covering:

- the current status of western rock lobster stocks, e.g. exploitation rates, catch and fishing effort and breeding stock and recruitment levels,
- the fishery's harvest strategy, potential catch levels and quota setting process,
- ecological impacts of the fishery, e.g. interaction with habitat, communities and protected species, such as sea lions and whales, and
- management / governance issues, including the fishery's stakeholder consultation processes.

At the end of the briefing there will be an opportunity for participants to raise any additional issues for discussion.

#### Meeting

**Location:** Fisheries and Marine Research Laboratories (First floor)  
39 Northside Drive, Hillarys, Perth, Western Australia

**Time:** 08.45 for a 09.00 start. Close 12.45

**Date:** Tuesday 17 November 2015

**Agenda:** Please see below

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<sup>10</sup> Recertification is due to be completed by 11 March 2017

**RSVP: Sarah Winslade-Mullane (Ph: 08 9482 7246, [Sarah.WinsladeMullane@fish.wa.gov.au](mailto:Sarah.WinsladeMullane@fish.wa.gov.au)) by 10 November 2015.**

**For further information please follow the links below.**

A description of the Western Rock Lobster Fishery, including history, catch, fishing effort and recruitment (puerulus settlement) levels

<http://www.fish.wa.gov.au/Species/Rock-Lobster/Pages/default.aspx>

The Marine Stewardship Council's Certification of the Western Rock Lobster Fishery

<https://www.msc.org/track-a-fishery/fisheries-in-the-program/certified/south-atlantic-indian-ocean/western-australia-rock-lobster>

Australia's Western Rock Lobster Fishery a finalist for UN Environmental Day Awards

[https://www.msc.org/newsroom/news/australias-western-rock-lobster-council-finalist-for-un-world-environment-day-awards?fromsearch=1&isnewssearch=1&b\\_start:int=10](https://www.msc.org/newsroom/news/australias-western-rock-lobster-council-finalist-for-un-world-environment-day-awards?fromsearch=1&isnewssearch=1&b_start:int=10)

The western rock lobster fishery's assessment under the Commonwealth Department of Sustainability and Environment's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). <http://www.environment.gov.au/topics/marine/fisheries/wa/rock-lobster>

The EPBC Act requires the Australian Government to assess the environmental performance of all Australia's export fisheries and those managed by the Commonwealth Government.

## AGENDA

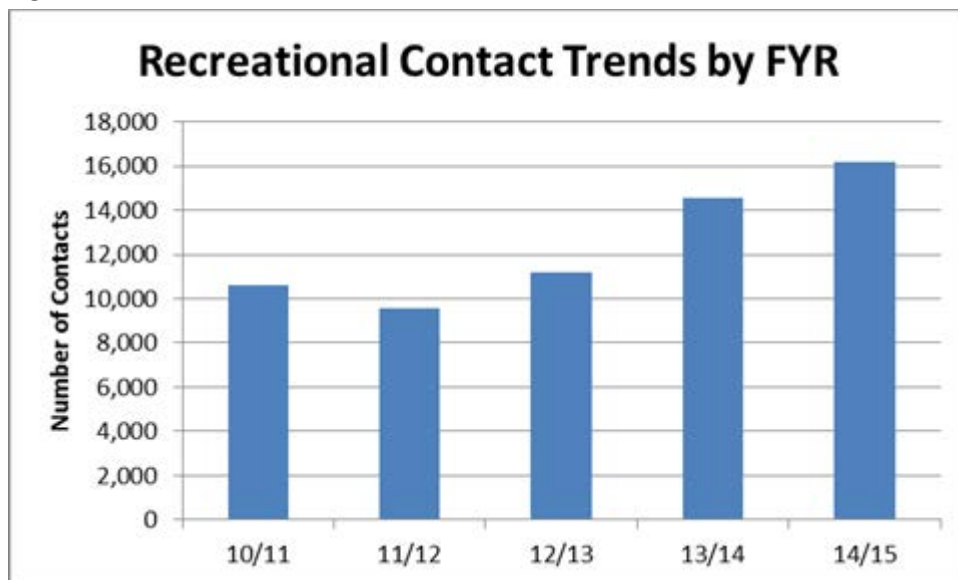
Questions will be taken during and at the end of each presentation.

<b>Western Rock Lobster Fishery Stakeholders Consultation Meeting</b>		
<b>Tuesday 17 November 2015</b>		
Time	Topic	Presenter
09.00 to 09.10	Welcome  Purpose of meeting	Chairperson – Mr Nathan Harrison Department of Fisheries (DoF)  Western Rock Lobster Council – John McMath
09.10 to 09.25	Marine Steward Ship Council (MSC)  The MSC and its consultation process	Matt Watson MSC representative in WA
09.25 to 10.25  10.25 to 10.40	Western Rock Lobster Fishery: <ul style="list-style-type: none"><li>• Stock status,</li><li>• Environmental considerations</li><li>• Interaction with protected species</li></ul>	Dr Simon de Lestang DoF  Dr Nick Caputi DoF  Dr Lynda Bellchambers DoF  Dr Jason How DoF  20 minutes each or as you agree, including question time.
10.40 to 11.00	Morning tea.	
11.00 to 11.30	Management of the fishery <ul style="list-style-type: none"><li>• Over-arching legislation and controls used to manage the fishery.</li><li>• Harvest Strategy/Quota setting</li><li>• Current issues</li></ul>	Ms Jo Kennedy DoF
11.30 to 11.45	Recfishwest	Dr Andrew Roland Recfishwest
11.45 to 12.30	Open floor discussion and raising / tabling of issues.	Chairperson
12.30 to 12.45	Discussion re most effective form of stakeholder consultation.	Chairperson / Ms Jo Kennedy / Mr John McMath
12.45	Close	Chairperson

## Appendix 4

### Compliance Data for the Western Rock Lobster Fishery

Figure 1



FYR = financial year.

Figure 2

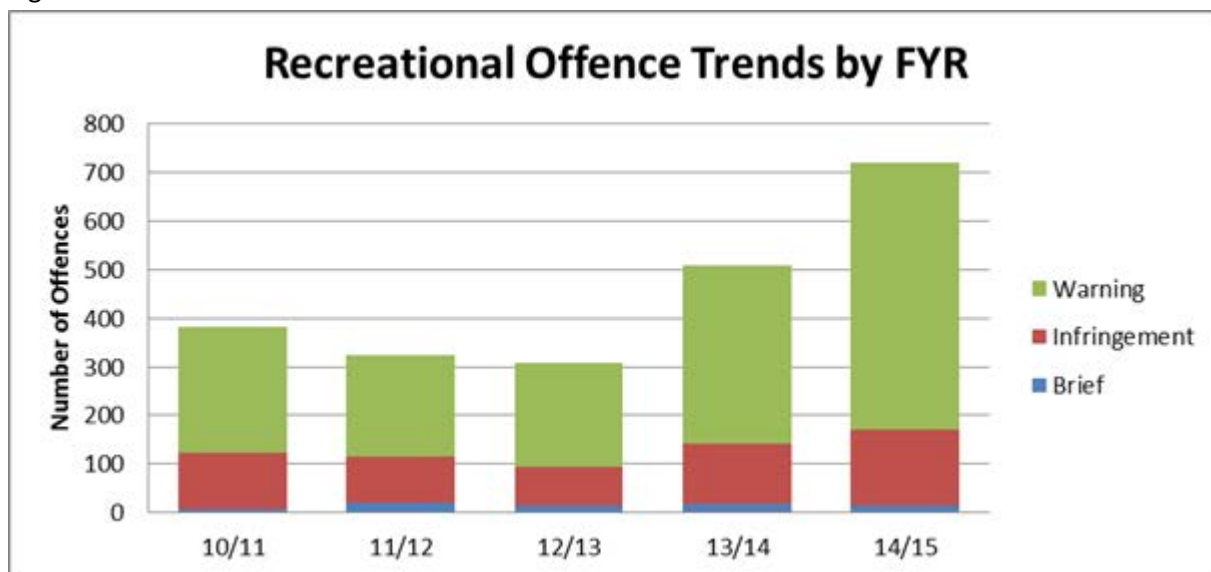
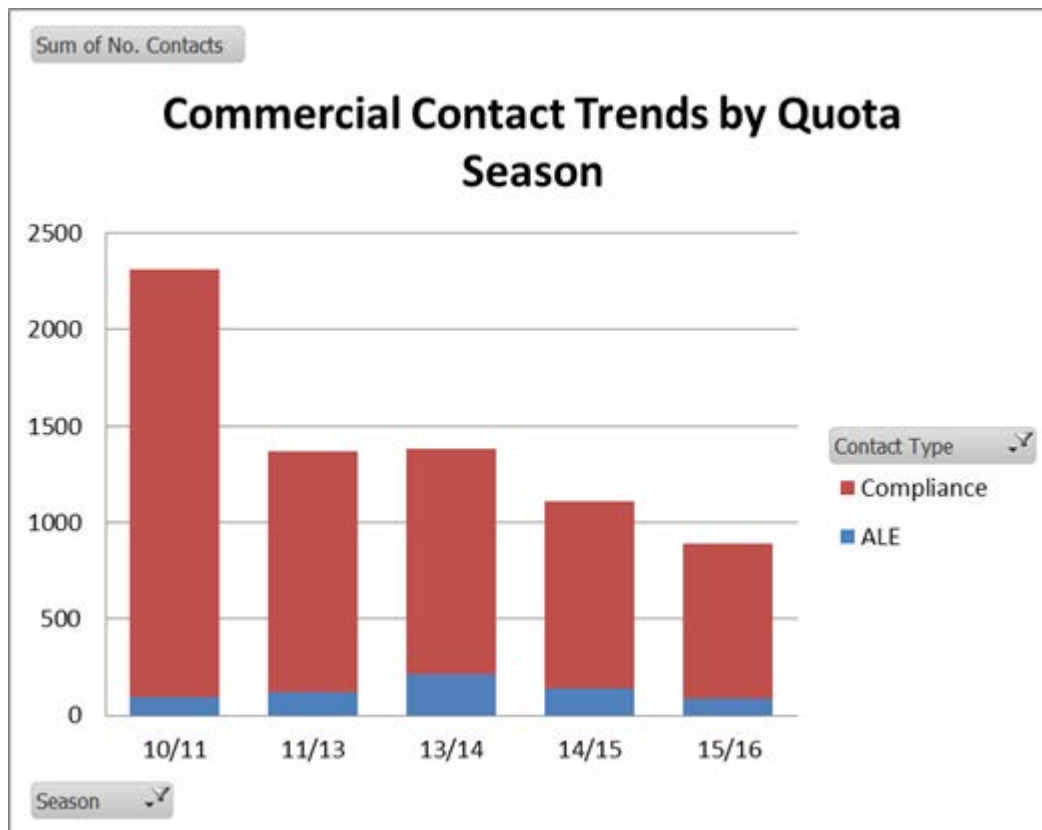


Figure 3



**ALE = Advice Liaison or Education contacts. Compliance powers are not used.**

Table 1. Number of commercial contacts by season with educational contacts excluded:

Season	Compliance Contacts*
10/11	2219
11/13	1251
13/14	1167
14/15	970
15/16	803

**\*Excludes some gear inspections made by the Department's large patrol vessels. Therefore represents a minimum number of inspection contacts.**

Figure 4

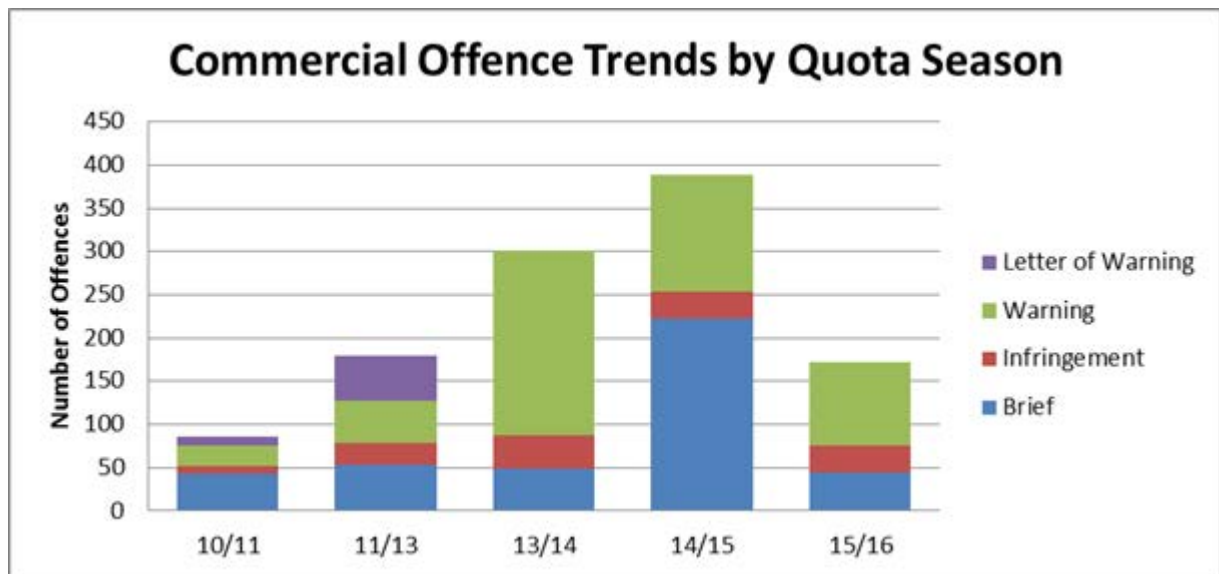




Table 2. Sea lion and bait band offences – commercial (both) and recreational (SLEDs only<sup>11</sup>)

<b>Commercial Sector</b>	<b>Number of Offences Detected</b>	
Season	<b>Sea Lion Exclusion Device (SLED)</b> Fished with pot not fitted with a sled	<b>Bait Bands</b> Master of boat fished with bait band on-board
10/11	1	
11/13	2	2
13/14		2
14/15	1	1
15/16	3	9

Table 3. Recreational SLED offences

<b>Recreational Sector</b>	<b>Number of Offences Detected</b>
FYR (Season)	<b>SLED offences</b> Fished with pot not fitted with a sled
11/12	15
12/13	12
13/14	14
14/15	19
15/16	15

<sup>11</sup> Recreational fishers rarely use bait boxes with bands.