

**FISH RESOURCES MANAGEMENT AMENDMENT BILL 2011**

*Second Reading*

Resumed from an earlier stage of the sitting.

**HON MATT BENSON-LIDHOLM (Agricultural)** [5.06 pm]: Before the break, I was acknowledging the various committee members who participated in the review of the 1994 act. I think I mentioned industry participants Max Ball and Mr John Newby. I believe Mr Newby was the chair of the Western Australian Fishing Industry Council at that time. I may be incorrect in saying that. He has certainly performed in that role in the past. I also mentioned Ms Heather Brayford, together with Ms Rae Burrows. Both women have had very distinguished administrative careers in fisheries. Ms Burrows was appointed the executive support officer of the ministerial review committee. I will quickly mention the terms of reference of the committee, which are —

1. to inquire into and report on the effectiveness of the FRMA in conserving, developing and sharing the fish resources of the state for the benefit of present and future generations;
2. to inquire into and report on the effectiveness of the FRMA in the protection of fish habitats and aquatic biodiversity; and
3. in the context of the FRMA, report on any other matters of significance arising from the review process.

As members may well appreciate, they are certainly most appropriate terms of reference, largely taken up by this new amendment bill. I mentioned earlier that the Fish Resources Management Act was reviewed 12 years after its inception. I inadvertently forgot to mention some of the initiatives that underpinned the need for that review. Hon Jon Ford alluded to them but I need to put them on the record. One is the implementation of new initiatives such as integrated fisheries management, the Aboriginal fishing strategy and the changing emphasis in natural resource management generally. These require a reconsideration of the act. It is also important to note, as the committee found out, that increasing levels of organised crime have also resulted in the requirement to strengthen the fisheries compliance regime. Those reasons underpin a significant part of the need to change this act or to at least put amendments in place.

The review process was relatively simple in the number of stages that we engaged in. However, the requirements, particularly of the executive officer, were significant, given where we ended up. I do not necessarily want to go through those processes in any great detail but I need to mention that initially the Department of Fisheries released a discussion paper in April 2006 which outlined the large number of proposed amendments to the act. Public comments were subsequently sought on the discussion paper and these comments and submissions informed the committee of the various deliberations that we needed to engage in, and a draft report was developed from that. In addition, the committee received a briefing from the Department of Fisheries on new fisheries management policy directions to include ecologically sustainable development, integrated fisheries management and the Aboriginal fishing strategy. Separate discussions were also held between the Department of Fisheries and the WA Fishing Industry Council and between the department and representatives from a number of indigenous organisations, including the Goldfields Land and Sea Council, the Kimberley Land Council and the Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation. The outcomes of these discussions were reported to the committee for its further consideration and the committee then developed its draft report. The review highlighted a number of areas in which the performance of the 1994 act could have been improved. The review has also been able to identify and confirm some of the act's strengths and areas in which the act has functioned well since its introduction.

We then moved on to the final phases of the process. A total of 34 submissions on the department's discussion paper were received. Of those submissions, 31 per cent were from Australian government and state government agencies, which is interesting; 38 per cent were from individuals and industry bodies; and the remainder were from peak bodies and advisory committees. The number of submissions received from the broad cross-section of the community provided useful guidance for the development of the draft report. To finish that off, the draft approach was then opened for public comment until 16 February 2007. During that time the committee visited a number of ports and regional centres to discuss the report and any concerns and comments that people had. Once the submissions were received on the draft report, a final report was developed and forwarded to the minister for his consideration.

The final report formed the basis of the drafting instructions for the Fish Resources Management Amendment Bill, which I think is basically what is before us today. That was the review process, as I understand it. I do not think that there is too much more that I need to say about the actual processes and activities that the committee engaged in. A number of key policy issues were dealt with, but I have no intention of going through those now. That sort of information is available to members if they want to seek it out. For me personally, to be part of the

process was a very interesting and rewarding experience. What the review committee came up with largely underpins this amendment bill as we have it today. I am very proud to have been a part of that process.

**HON PHILIP GARDINER (Agricultural)** [5.13 pm]: I would like to make a few remarks about the Fish Resources Management Amendment Bill 2011. Many of the changes in this bill are good and productive, and will improve the administration of the fisheries industry. My first interaction with the fisheries industry was at a meeting held in Fremantle in late 2008 or early 2009. At that meeting I heard different parties' very strong, well-advocated views on what was happening in the crayfish industry. The main issue at that time was the issue of science and whether the science should be followed in determining what would happen to the crayfish stocks with the puerulus counts, and the lag between what happens to the puerulus when they are counted and when they grow into adults when there is a sustained fall in the puerulus counts. At that meeting I saw the minister, who is still the Minister for Fisheries, our current Leader of the House, take on this very strong meeting in a way that defended the science.

One of the things in the Fish Resources Management Amendment Bill 2011 that I was particularly encouraged to see is proposed new section 4A, which relates to the precautionary principle. It states that where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. We all know that science is never 100 per cent complete; maybe "never" is too strong, but it is rarely 100 per cent complete. There are even some who still believe that the earth is flat! But science makes such great steps and has a robust questioning philosophy that develops the truth, and that is one of the key determinants forcing our behaviour and the development of our policy in so many areas that affect the way we live. I think that underlying principle has to be in place, because understanding what is going on below the surface of the ocean is very difficult, and it is very hard to do a clear, precise count of any of our fish stocks in the ocean. Probably the best was that of crayfish, but how do we count what is down there amongst the dhufish and pink snapper and the other Western Australian native fish, if members like, about which we have population concerns? I think this is an excellent clause to put in as a basis for a bill that has so much to do with making sure that we do not destroy the population of our fish stocks in a way that has occurred in different parts of the world. I guess the only querulous part about this particular principle is for those who have concerns about global warming. Perhaps they should reflect on this principle as well, not to denigrate the questions, but to understand that lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

The second part of the bill that I would like to refer to briefly is proposed section 48, which is concerned with defences. One of the defences was in the act, in part, before, but this amending bill strengthens it, and it states that it is a defence that —

... on becoming aware of the taking of the fish, the person took immediate steps to return the fish to its natural environment with the least possible injury ...

I know I am drawing a bit of a long bow here, because that was already in the act; all this bill does is emphasise that this is a defence. What worries me about this defence is that if someone catches a dhufish and brings it to the surface and they did not mean to catch that dhufish and it exceeds the bag limit that has been proclaimed as a regulation, when they toss it back it is going to die anyway, as I understand it. If I have my science wrong on that, I would be very pleased to hear it, but I understand that very few dhufish that are tossed back survive because, like we get the bends, I understand that they have a similar physiological impact as a result of being hauled to the surface quickly, which fishermen always do. Although it is a defence, it is a defence against not meaning to do it. However, I am not sure it is a meaningful defence for those people who, close to their bag limit, drop their fishing line over the side of the boat again—especially if the precious fish that is caught is one that will die anyway.

I like that this bill will act as an example to other areas of our natural resource industries by providing for environment management and monitoring plans. These plans are a major proposed inclusion in the act. Environment management plans are one way to ensure that the onus to maintain the environment rests with those responsible for the environment, be it aquaculture—this bill does a lot to promote the future of aquaculture—or another area of the environment.

Debate adjourned, pursuant to temporary orders.