

**COMMITTEE REPORTS AND MINISTERIAL STATEMENTS - CONSIDERATION**

*Committee*

The Chairman of Committees (Hon George Cash) in the Chair.

*Management of Fisheries - Statement by Minister for Agriculture, Forestry and Fisheries*

Resumed from 20 August.

Hon BRUCE DONALDSON: I move -

That the statement be noted.

I also note that the ministerial statement was made on 11 December 2002. We are obviously having trouble keeping current with ministerial statements, but we will soldier on anyway. The ministerial statement made by Hon Kim Chance related to Fisheries Management Paper No 165 titled "Report to the Minister for Agriculture, Forestry and Fisheries by the Integrated Fisheries Management Review Committee" - literally, the Toohey report. Members are aware of the complex issues involved in trying to reach a resolution on this issue. There are competing interests for fish stocks, which are under increasing pressure as a result of technology. The commercial and recreational sectors are now armed with technology that people did not have 20 years ago. I remember that in my recreational fishing days, we hoped to goodness that we would find a spot; if we found one, we would dump a marker buoy over the side. Sometimes it did not have enough weight on it to hold the bottom, and we continually drifted backwards and forwards past where the marker buoy was set. Without modern global positioning systems - GPS - the buoy could move 100 yards and it was very hit and miss. Today is a different story. With the advent of GPS, people can come back to within one to three metres of the original spot. Technology has been a boon in many ways; it is not only detrimental. When lobster fishermen went outside the continental shelf before GPS, they had automatic pilot. However, if they did not judge the wind and tide correctly, they would end up halfway down their line rather than at the head of the line. In this day and age, they go straight out to the leading flag right on the spot. Technology has produced some benefits.

On the other hand, our population is increasing. It is born and bred into us on this island nation that most of us enjoy recreational fishing from time to time. An estimated 600 000 people are recreational fishers. That might be the case. Thank goodness they do not put their lines in all at once, otherwise there would not be too many fish left. Half of those people probably fish about half-a-dozen times a year.

I am aware that a program designed to allocate resources will be concluded by 2006. I have great sympathy for the allocation committee that is responsible for coming up with a mechanism to accommodate the competing interests. Unfortunately, we cannot count the number of fish. That is the sad part. We can count the number of sheep or cattle in a paddock to determine what stock we have and what stock we have lost. It is far more difficult to try to come up with an accurate assessment of fish stocks. It is also very difficult to know how much breeding stock is caught and what effect that has, although we found out what effect it had in Shark Bay. That situation was exploited by everybody. The mudflats in the Nanga Bay area were the breeding ground for snapper. In the early years, people just dropped their lines over the side of their boat and caught magnificent-sized snapper. Of course, we soon found out the end result of those actions. It will not be easy to allocate resources. Although bag limits have had some effect on controlling the exploitation of fish stocks, at the end of the day people on either side will feel aggrieved.

The ministerial statement referred to an attached cost. The Government must look seriously at what it will do with, for argument's sake, the commercial fishing industry and whether it will prevent part of the fleet from fishing different categories of fish. What will the Government do with recreational fishers? It was interesting to hear Senator Ian Campbell this morning as he flew over the Great Barrier Reef and the exclusion zones in which people now fish. He said money was being made available to people if they could prove that they have been severely impacted. He referred to fish and chip shops and bait and tackle businesses. This issue opens a can of worms. We are dealing with compensation and the more costly arrangements associated with professional fishermen who obviously have a lot to lose.

The Western Australian Government wants to create another 11 marine parks and reserves in Western Australia and it wants to do so quickly. I understand that it wants to develop them by Christmas. That concerns me, because I understand that the Department of Fisheries is involved only in an advisory capacity. That worries me a bit, because commercial and recreational fishing provides a huge boost to the economy. Recreational fishing is very much a part of our tourism industry and brings in an awful lot of money. People have quite rightly pointed out - this is a valid argument - that although the sales tax disappeared when they spent more money, the goods and services tax did not. It has been estimated that the tourists who participate in recreational fishing have contributed millions of dollars to the growth of the Western Australian economy. The recreational fishing sector has a valid argument, as do the commercial fishermen. The minister will be able to give me the answer to that.

I would like to know what role the minister plays in the establishment of marine parks and reserves. Once upon a time, the Minister for Fisheries had a fairly big say in what should happen at the end of the day, after plans were developed in some form for the marine habitat. The Department of Fisheries played a greater role in the establishment of some marine parks, such as the Jurien Bay Marine Park. That was a multi-use park, and it turned out fairly well. It probably satisfied most of the interests of the competing users of a significant marine area. There has not been a lot of angst among different groups. I do not think the RecFishWest people were very happy, but I do not think they understood that it would not really impact on them to the extent that they said it would. They are still able to fish in the Jurien Bay area in the same way that people have fished there for years. I thought that was a reasonably good success story. I would hate to think that something would be established in haste and that areas would be locked away. People feel aggrieved about the commercial fishing industry. Okay; that is their opinion. However, on the recreational side, it is a very brave Government that would upset 400 000 or 500 000 people, because they can all vote at the poll.

I hope that the minister will still have a fair degree of say prior to the establishment of any more marine parks and reserves. If those parks and reserves are established, I am sure that the minister will ensure that the system is fair and equitable so that both the commercial and recreational fishing industries will not be further disadvantaged. I believe that is very important. I look forward to the next couple of years. I am sure that a wide consultation process will take place. It probably will not be without some angst among various groups of people. However, in the long term, of course, we must understand that if the situation is left unabated, as the population in Perth grows to about two million people, the number of people in the fishing sector will grow correspondingly. Pressure will then be placed on the fishing stocks. We do not want what has happened to a lot of fisheries around the world to happen to the fisheries in this State. When I was away with the committee that dealt with the gene technology issue, we saw the cod grounds off Newfoundland and the northern part of the eastern seaboard of the United States. That fishery just closed down because it had literally been fished out. We run a risk. Some of our more prized species such as jewfish and snapper could be prone to overfishing very quickly. We would hate to see that. It is a concern, because recreational anglers are getting smarter about the way in which they catch their fish. Commercial fishermen are also getting smarter. When it comes to their financial viability, they are making sure that they get the greatest reward for their efforts in the shortest possible time.

It is a complex issue, and it could become very controversial in the next two years. However, I hope that people in both the commercial and recreational fishing sectors will at least sit down and look a lot further into the future than they are looking at the moment in trying to appease their membership. At the end of the day, I fear what could happen in 20 years if we do not move down this path.

Hon KIM CHANCE: I thank Hon Bruce Donaldson for his comments in moving that the statement be noted. He raised a couple of points to which I will be happy to respond. This debate also provides me with the opportunity to update honourable members on the progress towards integrated fisheries management because, as Hon Bruce Donaldson noted, it is some time since I made this ministerial statement.

Every morning when I wake up I count my blessings at being an Australian and a Western Australian in particular. The more I learn about and see of the rest of the world, the more amazed I am at my unbelievable luck in having been born in this place at this time. No more is this expressed than in terms of recreational and commercial fishing. With some 17 000 kilometres of coastline and only two million people to share it, we have unique opportunities to think about preserving the ability of our grandchildren to enjoy the same kind of bounty from the sea that we currently enjoy. This is not an option for a North American. This is not an option for a European. It is not even an option for those in underdeveloped countries, who we think would not have had the opportunity to over-exploit their fisheries. In their case, the developed countries have exploited their fisheries for them such that international fisheries in this day and age, particularly in the northern hemisphere but increasingly in the southern hemisphere, have been wiped out by rapacious and exploitative fishing.

We have the opportunity in Western Australia to preserve those rights. However, we should never believe that even at our low level of population pressure on our immense coast we are immune from overfishing. We have already proved to ourselves that it is possible. We have not had a wipe-out of stock of the scale, for example, of the orange roughy fishery from the New South Wales coast to the Tasmanian coast. That recent experience in other States has shown that it is quite possible. The wipe-out of the orange roughy, which is a deepwater fish subject to a trawl fishery, happened within about four years of the fishing industry being assured that it was a resource that would not diminish. It was assured that the fishery would go on forever.

Hon Paddy Embry: That is how well they put their argument.

Hon KIM CHANCE: Exactly. This is not something that happened in the 1940s or 1950s, when marine science was not highly developed; this happened at the end of the last century - the late 1990s and early 2000s. With all

the advantages of the scientific knowledge that was available to those fisheries managers, we still managed to wipe out a fishery.

I am concerned about some of our aggregating species and how easily they can be wiped out. We got a real shock in the Shark Bay commercial oceanic snapper fishery this year. We were at the point of believing that we had recovered from the earlier diminution of stock that occurred in the late 1980s and were now managing that fishery on a sustainable basis when all of a sudden the data started to tell us that we had got it wrong and were overfishing. Why this is possible, particularly with an aggregating species rather than a more permanently resident, less itinerant species, is that when these fish come up to spawn they form massive aggregations, so it is very easy to have catch rates that seem to indicate a massive abundance of that type of fish. The pink snapper is the main species to which I am referring. Because all the aggregation has been caught, as all the pink snapper in the region are gathered into these areas roughly the size of a football field, the whole lot can be taken and by the time they come to aggregate the following year, it is discovered that they did not disperse into their normal environment and, in fact, the lot has been caught and there is nothing left. That is how quickly it can happen with aggregating species.

Hon Bruce Donaldson mentioned one of Western Australia's favourite species - the jewfish. I am constantly amazed that there are any jewfish at all left in Western Australia. Happily for us, the jewfish-favoured area is in the Perth metropolitan region, so that species cops enormous pressure. I am amazed that people are still catching that very long-lived fish. The longer lived a fish is, the easier it is to eliminate because it has to be so big before it even reaches sexual maturity and new generations can be bred. That indicates to me that there is something about the science of some of these deep-dwelling species that we do not understand and that perhaps we are recruiting new recruits from further out in deeper water.

Notwithstanding the fact that we exert a relatively light footprint by international standards on our marine resources, we need to be very careful that we do not go over the top. It would be difficult for me to nominate a single species in Western Australia on which we have not had an impact to the extent that we have pretty well reached the limits of our capacity to exploit the resource. I could possibly name a few. The ruby snapper in the deep water of the continental slope off the Kimberley beyond 200-metre isobath is probably an unexplored fishery. Maybe the crystal crab and some of our small pelagics - the whitebait and the pilchard - have some room for additional exploitation. However, that is a tiny proportion of our total fish stock. There is very little room for us to be complacent; indeed, there is no room at all. How, then, do we deal with a rapidly growing population, which is still growing in its affluence and its capacity and desire to exploit the recreational portion of the fishery? How do we deal with the aspirations of the indigenous community, which claims, quite rightly in my view, that it has been here for 40 000 years and did not diminish the fish stocks, and asks why these rules are being imposed on it? I think that is a reasonable argument, particularly for Aboriginal communities that are still living in a traditional context. We have to cope with the demands of the charter fishing sector of the tourism industry in all its various facets, which demands are growing and which we want to continue to grow. That is something we want to encourage. We want to be able to attract visitors, particularly international visitors, to our fisheries as a tourism attraction, and we need to ensure that the charter sector is dealt with as a separate sector.

It is not just the traditional dichotomy between the recreational and the commercial fishing sectors, but even there we need to balance elements. This is where integrated fisheries management has a very sophisticated role to play. I commonly hear from the recreational sector that the value of a given fish resource to the tourism industry in, say, Mandurah or Geographe Bay is far higher than the value of that fishery to the commercial sector. The economically rational way of dealing with that would be simply to allocate the resource back to the recreational sector so that the tourism sector could continue to grow. The argument is based on quite sound logic, but there is one fatal flaw in the logic; that is, many of the visitors who go to those areas as tourists - I am mostly talking about domestic tourism - do not actually go there to fish. They go there to dine at restaurants or to buy fish to take home. This is the classic situation with Mandurah crabs. I go to Mandurah on a number of occasions during the crabbing season, and I never get my knees wet, but I always come back with crabs, because I buy the crabs.

Hon Paddy Embry: It is a case of who you know, not what you know, is it not?

Hon KIM CHANCE: Exactly! No, they can just be bought at fish shops. If there is no commercial fishery, the tourists will not go there. This was illustrated acutely to me in an interesting dispute over the use of the Blackwood River. I think every member of this place would have been lobbied by a group of recreational fishermen who were attempting to deprive the one remaining professional fisherman left in the Blackwood from his living. They ran a very aggressive web site called [www.breammaster.com](http://www.breammaster.com), as I recall - not that I ever looked at it. It was a very aggressive site that sought to lobby me directly to get rid of this commercial fisherman. The commercial fisherman generously allowed us to publicly release his catch data. Normally, that is protected under confidentiality agreements, but he wanted the facts to get out so that people would know. His catch is less than one tonne a year. The most recent figure we have on the recreational catch of black bream in the

Blackwood River is from the later 1970s, which was the last time a creel survey was done in that area. We know that it has grown considerably since the 1970s, but the recreational catch of black bream in the Blackwood River in 1978 was 23 tonnes. The recreational sector was taking 23 times as much as the professional fisherman was taking, and it wanted him out.

Hon Derrick Tomlinson: Were those figures recorded at the same time, or in two different periods?

Hon KIM CHANCE: The one tonne is current; the 23 tonnes was from a creel survey from 1978. However, we believe that number has risen since that time. Even if the number was two or even one, to suggest that perceived problems were caused by one commercial fisherman is just absurd. They are only perceived problems, because there is no scientific evidence of depredation of that species as a result of overfishing. There are certainly environmental issues, but none as a result of overfishing, because recruitment is through an entirely different process. The integrated fisheries management process will look at not only the scientific issues but also the socioeconomic issues. That is the real value of the process. The interesting factor in this argument was that the very strong support this commercial fisherman obtained from his local community was driven by his contribution to their businesses. On one level, a group of recreational fishermen were saying that tourism would benefit from closing down this commercial fisherman - the place would thrive and prosper. The problem was that Augusta businesspeople were saying the exact opposite. The Augusta businesspeople, represented by individuals who owned relevant businesses such as hotels and fish and chip shops, and also by the local chamber of commerce, were saying that the existence of that commercial fisherman allowed them to sell fish that they could tell people were fresh and caught locally. That is why they needed the commercial fisherman.

Hon Paddy Embry: Why do we import so much from Japan for fish and chip shops?

Hon KIM CHANCE: That is quite a different matter. In Augusta fish sold over the counter is identified with the Blackwood River. That is a very specific issue.

What I learnt was that not only the recreational fishery, but also the commercial fishery make an undoubted and massive contribution to tourism. We tend too easily to overlook that fact. As we make these socioeconomic judgments in determining the value of the fishery and how it ought to be used to best effect in the interests of the State, we must use far more sophisticated methodology than perhaps we have been inclined to use in the past. It has been an eye-opening experience for me and it indicates the depths to which the managers of the integrated fisheries management process must probe to make their decisions. It is my intention - I have said this before publicly - that, in its first expression at least, decisions made in the integrated fisheries management process will rely heavily on the history of catch in a given area. Whether we are talking about a massive fishery such as the rock lobster fishery or some other fishery, there has always been a recreational component of that fishery. I want that recreational component guaranteed and managed as a recreational fishery. No-one should fear that changes will occur simply as a result of the IFM process. The IFM process will bring far more discipline to the way in which access and relativities in access are managed between the fisheries.

Hon Bruce Donaldson: Isn't the estimate of the recreational lobster catch about 900 tonnes per annum?

Hon KIM CHANCE: Yes. The number of pots that are licensed to recreational fishers far exceeds those licensed to commercial fishers, although the real effort is much lower.

Hon Paddy Embry: In some areas, such as where I live, there are pockets that appear to be fished out, on a temporary basis I suppose, and it takes years to restock them. Queen snapper is a good example. People who fish and then sell illegally are part of the problem.

Hon KIM CHANCE: Yes.

Hon Paddy Embry: Of course, some come from your electorate. When they are serious, they come into my electorate, fish very heavily and then sell in places like Katanning. If too many people do that, it will all add up.

Hon KIM CHANCE: I do not live anywhere near Collie!

Hon Paddy Embry: People in my electorate, of course, wouldn't do that.

Hon KIM CHANCE: No, they would not. The member is quite right: one of the issues we have had to contend with in fisheries management, particularly in the recreational fishery, is the question of shamateurs - amateurs who actually sell fish commercially. That is a different question. I think we have dealt with that question through the implementation of changes to the regulations since the adoption of the review papers on the west coast and Gascoyne, and the more recent release of the papers on the Kimberley, Pilbara and the south coast. The rules that followed those papers, particularly the rule on possession, will substantially prevent the wheatbelt-goldfields-type fishers, whom the member has referred to, coming into an area, spending two or three weeks there, fishing it to death and carting out freezer loads of fillets.

Hon Paddy Embry: Are fishermen allowed to cut fins off sharks?

Hon KIM CHANCE: Yes.

Hon Paddy Embry: If they don't, they taste wrong.

Hon KIM CHANCE: Yes, but they must land the trunk of the shark in the same way as a professional. They cannot fin at sea, as that is regarded as processing at sea. It is important to remove the fins and gut from a shark as quickly as possible.

Hon Derrick Tomlinson: The fins or the liver?

Hon KIM CHANCE: Fins are as important as the liver. The issue with sharks is ammonia, and the source of ammonia is quite widespread.

Hon Bruce Donaldson: What about marine parks, one of the biggest issues at the moment?

Hon KIM CHANCE: I am happy to advise that development of marine parks requires a dual right of concurrence between my role as Minister for Fisheries and the role of the Minister for State Development. A marine park cannot be approved without the concurrence of both me and the Minister for State Development.

The current part of the process for the construction of marine parks in the Dampier Archipelago and the cape-to-cape region is the community consultative processes. Although the Department of Fisheries is a government department and RecFishWest is a quango, they do not have an automatic right to membership of those community consultative committees. However, we are entitled to be present and to provide advice to them. They are community-driven committees. I understand the principle to which the member referred. I have heard the same remarks; namely, the Department of Fisheries is not having enough say in the process. Obviously, I cannot agree with that.

Hon Bruce Donaldson: Originally, the Minister for Fisheries had that input before anything was done.

Hon KIM CHANCE: I can assure the member that the Minister for the Environment, who has control of this process, consults very closely with both me and the Minister for State Development.

Hon Bruce Donaldson: The fishing organisations will be very happy to hear that. They were concerned because they thought you were being isolated.

Hon KIM CHANCE: I thank the member for those references to the Jurien process. Two stakeholders absented themselves; namely, RecFishWest and the Conservation Council of Western Australia. The Conservation Council objected to the extent that it was not only absent from Jurien for the release of the Jurien Bay management plan but also held a press conference here in Perth, bagging what we sought to do in Jurien Bay. It was very disappointing.

Hon Bruce Donaldson: The Greens (WA) were also absent - the three of them objected.

Hon KIM CHANCE: It was very disappointing. As much as the Jurien Bay management plan was a qualified success - I think in practice it has been, although it is far too complicated to follow; the lines on the map could be simpler -

Hon Bruce Donaldson: The principles were fine.

Hon KIM CHANCE: Yes, the principles were fine. There is nothing wrong with the multiple-use concept; indeed, there is much right with it. Those principles are consistent with the coalition's policy - we used the same document, "New Horizons" -

Hon Bruce Donaldson: The Act shows how the Marine Parks and Reserves Authority is designated.

Hon KIM CHANCE: It has been a continuation of the previous Government's policy. We had not attempted the establishment of a marine park in a high-use area. We then simultaneously took on the Dampier Archipelago and cape-to-cape region, both of which were always going to be highly contentious. As it happens, the Dampier Archipelago is such an important recreational fishery that it has very little commercial fishing. However, the people who fish there are probably the most up-front and militant group of recreational fishermen in Western Australia. The cape-to-cape region has both a highly developed recreational fishing sector allied to the massive tourism sector in the region and an extensive commercial fishing component. That will always be a tough issue. I am quite encouraged by their progress in the relatively short time they have had.

I refer to the state of play with the implementation of integrated fisheries management. The 2004-05 budget included an initial commitment of \$4.1 million in new funds towards protecting and sharing WA's coastal fish resources. These are all precursors to the development and implementation of integrated fisheries management, because a number of scientific issues need to be understood before we can make the decisions that will be fundamental to the implementation of integrated fisheries management. Major components of the initiative

include the establishment of target catch levels, and I have referred to the role that fishing history will play in determining the proportional sectoral resource shares in those key fisheries. It also involves a better understanding and management of the ecological impacts of fishing, and, as I have indicated, those fairly complicated socioeconomic questions that all result in judging what is the right decision for the region, because this is a highly regional-specific issue, and then for the State's broader interest generally. Obviously, when making a decision about, for instance, Shark Bay and the Exmouth Gulf, if we do not get it right, it can have an immensely negative effect, but if we get it right, it can have an immensely positive effect on the regional development of those areas. They are so heavily reliant on the marine resource both recreationally and commercially that they would virtually not exist without that resource. Therefore, we really have to be sure we get those decisions right.

Next year the Department of Fisheries will start an intensive data collection and review process. Fisheries management will be implemented on a species-by-species basis - not entirely, but that will be the guide. The top priority will be, in the first instance, the west coast fin-fish fisheries, including jewfish. There are probably more than two reasons for that, but the two key ones are, first, we do not know enough about jewfish - it is the icon species, closely followed by snapper; and, second, at this stage, commercially, our fin-fish fisheries are unregulated because we have not yet introduced the results of the wet-line review, which is under way. We will be working towards regulation but, at the moment, west coast fin-fish fisheries are wide open to exploitation by no fewer than 1 200 licence holders. Anybody who owns an open west coast licence is licensed to catch commercially. That is something we have just got to finally get tidied up.

The Government will be providing \$830 000 of new funds in 2004-05 specifically for IFM. That will fund the establishment of the integrated fisheries management advisory committee, which will oversee the two reviews that are being done on the priority fisheries. It will fund the appointment of an integrated fisheries management manager and support group within the Department of Fisheries. We should name that manager quite soon. The money will also fund the commencement of the integrated fisheries review processes for the west coast fin-fish fisheries, including the rock lobster fishery and the abalone fishery, followed by the west coast demersal fin-fish fishery. That funding will go towards the commencement of major research surveys to validate rock lobster and abalone data as well as a boat ramp creel survey, which will give us a better feel for the amount of fish that is being taken out by the recreational sector. We already have data from the commercial catch sector, but not from the recreational sector. That will give us a better picture of the catch and effort ratio between the commercial and recreational activities on the west coast. Finally, the funding will go towards the establishment of an integrated fisheries data collection and management group and a compliance evaluation program.

The administrative machinery of integrated fisheries management will be put in place during the 2004-05 budget period, which will enable an early start to working on probably those iconic species. We might also work our way through some of the more highly developed fisheries, simply because it is easy to do them. The toughest processes will be the management of species like snapper and jewfish, and the easiest process will probably be the management of rock lobster. One of the more challenging and interesting processes will be the management of abalone. Setting aside fin fish, abalone probably presents the highest level of need for that sort of management because of the number of sectors involved. It brings in the aquaculture sector as well and its need for breed stock, so it introduces a fifth class of stakeholder.

I am confident that this process will be successful. I am grateful for the bilateral support that integrated fisheries management has. It is supported by the Opposition, at least in principle, although we may differ on some details. It is important because the fishing industry and the recreational fishing sector need to have confidence that the process will not radically change its direction as a result of a change in government. I was keen to assure people when we came to government that we would be following along the line that had been started by the coalition Government. It is important that everyone has confidence that this is being done because it is necessary and because it keeps us in the position in which we really need to be.

We have to prove issues about the sustainability of fisheries. I again acknowledge what the coalition Government did late in its term when, along with the rock lobster industry, it was able to gain the Marine Stewardship Council accreditation. I might add that it was the first fishery in the world to obtain that accreditation. For some two years, I think, it remained the only fishery in the world to have that accreditation. We followed through and have been able to maintain that accreditation. I look forward to seeing that continue, along with and the application of the rigorous requirements of the commonwealth Environment Protection and Biodiversity Conservation Act. Although I have some disagreement about the impact of that legislation on our minor fisheries, I very strongly support it for our major export fisheries.

All these matters combine, which is an expression of the Commonwealth's oceans policy, which I very strongly support. I think that all these things can give current and future generations of Australians confidence that, although we may not have managed some of our terrestrial issues very well, we have managed our marine issues very much better. Setting aside a few fundamental errors, we have essentially been able to maintain a pristine

maritime environment and have generally been able to handle the issues of overexploitation. I note the tack that Queensland is taking at this stage, particularly with the Great Barrier Reef. I also note and acknowledge the quite radical management measures that have been implemented over the past few years in Victoria. I do not particularly want to follow either of those prescriptions. What we are able to do in Western Australia, and what we have the opportunity to do when balancing the sometimes competing needs of the various stakeholders, is the best way to do it. I see integrated fisheries management as the best expression of that.

**Question put and passed.**

*Joint Standing Committee on the Corruption and Crime Commission - First Report - Hearing with the  
Corruption and Crime Commission on 5 July 2004*

Resumed from 26 August.

Hon DERRICK TOMLINSON: Before I move that the report be noted, may I quickly respond to the brief but insightful comments of the Leader of the House on the nexus between domestic and commercial fisheries by observing that the sweetest fish I have eaten were the ones I caught myself.

*Motion*

Hon DERRICK TOMLINSON: I move -

That the report be noted.

This is the first report of regular meetings between the Joint Standing Committee on the Corruption and Crime Commission and the commissioner of the CCC. After discussions with the commissioner and his staff, the committee has agreed that the committee will formally meet with the commission on three occasions each year. The first meeting will be held shortly after the commission presents its annual report so that the committee may have a full briefing and thorough discussion of the content of the annual report. The second meeting will be a mid term meeting at which the commission will present the committee with a half-yearly report that will form the basis of its annual report, again with sufficient information for the committee to be able to make informed judgments about the functioning of the commission. The third meeting will be held to discuss matters of interest to the committee and the CCC. That does not preclude the committee or committee members from meeting with the commission on an as needs basis. That is similar to the functioning of the Joint Standing Committee on the Anti-Corruption Commission and its working relationship with the ACC.

On 5 July the committee met with Commissioner Hammond; Director, Operations, Mr Nick Anticich; Executive Director, Mr Mike Silverstone; Director, Corruption Prevention, Dr Irene Froyland; and then Acting Manager, Investigations Review and Complaints Assessment, Mr Roger Watson. They gave the committee a thorough and very frank explanation of the progress of the establishment of the new commission and some of the difficulties that it is having getting it established. When I say "difficulties", I mean impediments of procedure. For example, the commission has advertised to fill 60 positions in its investigation team and has received 700 applicants from all around Australia and New Zealand. When the commission considered the short-listing and appointment of the positions, it found the procedures of the Public Sector Management Act quite problematic. I suggest that the next Parliament - whichever party is in government - should lend its mind to a thorough review of that Act.

The report before us focuses on a series of matters that were raised with the Joint Standing Committee on the Anti-Corruption Commission at its last meeting with the ACC on 29 March this year. At that meeting, the three commissioners, O'Connor, Doig and - her name will come to me; I apologise that I have forgotten her name already - raised with me their concerns about issues arising from the transition from the Anti-Corruption Commission, which ceased to operate at the end of May of this year, to the new Corruption and Crime Commission, which commenced operation on 1 January this year. Their first concern focused on a loss of investment in the transfer of knowledge and infrastructure between the ACC and the CCC. Those matters related to the concern that there was minimal opportunity for employment of the former ACC staff, particularly the ACC investigative staff, and that if those staff were not taken up by the CCC, it would result in a loss of the corporate knowledge that those ACC investigators had accumulated over a period of six years. I apologise, but the name of the other commissioner has just come to me. It is Commissioner Rayner. I publicly apologise for my passing lack of recall.

Another concern related to the apparent failure of the ACC to adopt the information technology and document handling facilities of the ACC. It was believed by the three ACC commissioners that the CCC would buy its own computing equipment and set up its own document handling procedures, and they were concerned about that. They were also concerned about the apparent incompatibility between the IT systems to be adopted by the CCC and those that had been adopted by the ACC, and there was some confusion about the transfer of the ACC telecommunications interception facilities.

The committee's report on the ACC's concerns was tabled in May of this year, but the motion that the report be noted was moved in this Chamber only last week. Because of the critical nature of the ACC commissioners' observations, the committee thought it would be appropriate for the CCC to be given an opportunity to respond. Questions were given to the commissioner in advance, and he and his staff prepared responses to them. The committee was satisfied not only with the thoroughness of the answers given by the commissioners but also with the frankness and openness of the commissioners in their response. I think I can best sum it up by saying that all of the committee's concerns were assuaged. The committee was satisfied that all of the concerns that the ACC had expressed in March have been taken on board and are being satisfactorily resolved by the CCC. I am confident that the new commission - the CCC - with the powers that the ACC had lobbied for but never persuaded the previous Government to enact, with the team that Commissioner Hammond is gathering around him, and with the attitude that that team has shown in the first year of its operation, will be much more successful than its predecessor in not only investigating corruption but also preventing corruption through its corruption prevention directorate.

I regret that when the deputy chairman of the joint standing committee tabled the report of the committee in another place yesterday, he made some intemperate remarks that have caused concern to the Corruption and Crime Commission, my colleagues on the committee and me. I do not have the corrected proof of *Hansard* so I must look at the uncorrected proof and use it as an aide-memoire of what the member for Perth had to say. Having presented the official report and its empirical figures and frank evidence, the member made a statement to the effect that he intended to use his allotted time as a parliamentarian "to delve into the juicy bits". I am concerned that a person who presents a report as the deputy chairman of a committee believes that he can divest himself of his role and shift from one function to the other. Quite clearly it is possible, but when the matters were reported in *The West Australian* this morning they were reported as the words of the deputy chairman of the joint standing committee.

The member for Perth focused on the cost of computer equipment. From listening to the debate in the other place and from a perusal of the uncorrected proof of *Hansard*, I am unsure whether the member was referring to TI or IT. TI is telecommunications interception equipment whereas IT is information technology. The member seemed to have used the terms interchangeably. Unfortunately, the matter that gained the attention of the reporter from *The West Australian* was a statement that I believe is unfounded. It is unfounded on the basis of evidence available to the committee and published on the parliamentary web site because the meeting was an open meeting. The transcript of the meeting was published on the parliamentary web site so it is public information. The member for Perth indicated that, when the Anti-Corruption Commission was wound up this year, taxpayers were saddled with an expensive and compromised \$3.5 million information technology system that will have to be junked by the Corruption and Crime Commission. That is not true. To make that quite clear I refer to the transcript of evidence of the meeting with the commission.

I will quote it in full because it is essential that this be stated in light of the comments made by the member for Perth. I will quote from the transcript of evidence of the Joint Standing Committee on the Corruption and Crime Commission taken in Perth on 5 July 2004, which I emphasise was loaded onto the parliamentary web site shortly after the corrected proof was returned from *Hansard*. Commissioner Hammond, in his opening comments, stated -

I would like, if I might, to briefly cover a few specific issues regarding the taking over of the ACC by the Corruption and Crime Commission. Firstly, I have dealt briefly with the issue of staff, and the chart indicates the progress in that connection.

That is 60 positions, 700 applicants, including former members of the ACC staff who had applied and were being assessed according to the standard procedures of the Public Sector Management Act. He continues -

However, the chart does not detail covert operatives. Secondly, with respect to information technology, virtually the first person taken on board by this commission from the ACC was Mr Felix Ling, who was the systems and security administrator of the ACC and who joined us on 13 April with the title-role of manager information technology. He has worked tirelessly in organising the integration of the IT systems of the ACC and the CCC. In addition, we engaged the ACC contract support officer to ensure continuity. This commission was determined to ensure there would be no loss of knowledge as a result of the transfer of systems from the ACC. If the committee has detailed questions . . .

He then invited the executive director, Mr Silverstone, to respond to the committee's questions. Clearly, there was no intention to dump computer equipment. In fact, the commission is working hard, using the former information manager from the ACC, to integrate the two systems. Members should bear in mind that the CCC also inherited the systems of the royal commission, because all of the information from the royal commission was transferred to the CCC, and some of the royal commission investigations are continuing through the CCC. Mr Hammond then referred to the TI facility -



... I am aware that these issues were ones that were discussed at length previously - the equipment and personnel from the CCC have in fact been relocated and amalgamated with the ACC systems and personnel at 66 St Georges Terrace, Perth. At the moment those groups are completely combined and operating from the former ACC premises. The commission very quickly and with no difficulty acquired full TI intercept capacity from the Commonwealth. The other tangible assets of the former commission have been subject to inventory. They are largely still on site at 66 St Georges Terrace, but under the control of our security team, and of course the combined telephone intercept teams are still there. These items will probably remain there until our projected shift later in the year to 186 St Georges Terrace, Perth.

Not only is the TI system under the control of the CCC, but also, I suggest, it is being used in the current operations of the CCC, including operations that the CCC inherited from the royal commission. There is no intention of dumping. However, Mr Silverstone did draw attention to some concerns about the TI equipment.

I refer to the transcript of evidence; I quote him in full as follows -

... Mr O'Connor, in his testimony at an earlier meeting of this committee, raised the issue of considerable investment having been made in the ACC's TI capability and that it would be inappropriate for that opportunity to be wasted. He expressed a series of quite natural concerns about wanting to make the most of that investment. We are very conscious of that. We have just taken over that facility relatively recently and we are doing a thorough analysis of the capability that it provides to us, but it has become apparent that there are a range of concerns with that system that may make it inappropriate for future use by the CCC. I can talk in some detail about that, but that is certainly an evaluation that we need to make over time.

In response to a question by Hon Cheryl Edwardes, Mr Silverstone stated -

I note that last year they -

Meaning the ACC -

spent a considerable sum on the system's upgrade - something of the order of \$350 000 - but there are a number of technical issues attaching to it already, in terms of access to call data, that are important for assisting and monitoring. In order to gain access to a major telephone operating system's data, we are required to spend another \$60 000 at the present time to provide that access. The system is inflexible, because it is a foreign-owned company with a contractor located in Sydney. Even minor upgrades can be delayed for several days while we work through that issue.

Mr Silverstone subsequently wrote to the committee and corrected that information. A letter dated 15 July 2004, addressed to me as Chairman of the Joint Standing Committee on the Corruption and Crime Commission by Commissioner Kevin Hammond, read -

In a question to Mr Silverstone Mr Hyde stated "What is the contractor's involvement? Is the system leased, or owned?" Mr Silverstone answered that it was a leased system. That response was incorrect. The correct answer is that the telephone intercept system used by the A-CC, and passed on to the CCC, is a system purchased by the Government on behalf of the A-CC in December 2000. In response to Mr Hyde's further question "What is the life of the lease?", Mr Silverstone responded that the "lease has now expired", in fact Mr Silverstone should have responded that the "maintenance contract has now expired".

That maintenance contract was for \$60 000 payable every six months - therefore, \$120 000 annually. That lease expired. Therefore, when we return to the member for Perth's statement that a \$3.5 million information technology system will have to be dumped - I think he was in fact referring to a telecommunication interception system that will have to be dumped - there is no evidence for that claim. As for the \$3.5 million, I tried to find out today in a question to the Minister for Housing and Works the cost of the tender. Unfortunately, he was unable to answer the question because I had directed it to the wrong agency. That was my fault, not the minister's. The minister pointed out that the Department of Contract and Management Services in February 2001 called a tender and received three submissions. In fact, the equipment was bought and installed in December 2000. My understanding was that tenders were called by the Department of Contract and Management Services, and two tenders or submissions were received. I got my wires crossed when I asked the minister -

Hon Nick Griffiths: I am a bit concerned that I gave an incorrect answer.

Hon DERRICK TOMLINSON: No, the minister did not give an incorrect answer. My question was not appropriately phrased. I am not directing criticism at the minister; I am simply making the point that the information that I have is that the system installed in 2000 - the minister's reference was to 2001 during which

time I think there was a subsequent upgrade of the equipment at a cost of \$350 000 - was bought and installed by tender through the Department of Contract and Management Services. Two tenders were submitted and the cheapest tender was accepted. The evaluation carried out by the Department of Contract and Management Services and the Anti-Corruption Commission indicated that that was the most appropriate equipment for the ACC's purposes. I do not know what the contract price was; however, it certainly included supply and maintenance of the equipment. The supply and maintenance contract was the one that expired this year. I have an unreliable recollection that the cost of the equipment was in the order of \$650 000. I have been trying to find out whether that is correct. I have asked the Auditor General but he is unable to find out. I have asked the Corruption and Crime Commission but it is unable to extract from its information what is telecommunications interception equipment and what is information technology equipment. It is a bit confusing. I sincerely hope that through a series of questions to the minister - if I can ask the appropriate questions - I will get an answer. My recollection is that the cost was around \$650 000, but that is very unreliable. Most of what was bought was computer software. The company that supplied it was a Swiss company and the maintenance contract was with the Swiss supplier. The Swiss supplier has an agent in Sydney and that agent was the nominated contact in time of need. He was a telephone call away. So, too, was Switzerland. The office in Switzerland was in immediate telecommunications contact in case of a maintenance issue. However, since it began using this equipment in 2000, and the telecommunications intercept on behalf of the royal commission, the Corruption and Crime Commission made no calls whatsoever to the maintenance contractor. I was able to find this much out since I listened to the statement made by the member for Perth in the other place at 10 o'clock yesterday morning. That information, which was readily and easily available to the member for Perth, could have informed his statement. Instead, the statement contains gross errors of fact and its construction is invalidated by the available evidence. The consequence of that statement is this: the very good working relationship that the joint standing committee established with the CCC has now been jeopardised. If a parliamentary committee is to have a working relationship with an agency such as the CCC, there must be confidence between the two. The commissioners must be confident that the information given to the standing committee will be dealt with intelligently and with proper respect, and will not be abused for whatever reason. I anticipate one of two things. First, at our next meeting with the Corruption and Crime Commission, the commission will exercise its right to request that the meeting be held in closed session, so that there will be no openness, and no transcript of evidence will be uplifted onto the parliamentary web site for public access. Secondly, if the commission does not do that, I think the commission, quite properly, will be circumspect in its dealings with the standing committee. Frankness, openness and full sharing of information will be replaced by caution in statements by the commission. All that does is destroy confidence in the parliamentary oversight system and lead to suspicion about the functions of the CCC because, as with the Anti-Corruption Commission, it must shroud itself in confidentiality.

All I can say is that the comments made in another place by the member for Perth were foolhardy. They have been damaging to the joint standing committee, and have damaged our relationship with the CCC. I regret that they were made. I regret also that others from the committee are not available at the moment - they are elsewhere on parliamentary business - because I am sure that they, too, would have liked to contribute.

**Question put and passed.**

*Isolation Swimming Pool Fencing, Report of Standing Committee on Environment and Public Affairs - Statement by Minister for Housing and Works*

Resumed from 4 March 2003.

*Motion*

Hon RAY HALLIGAN: I move -

That the statement be noted.

Over a period, there were any number of infant deaths in swimming pools, and something certainly had to be done. There was a report to this House advocating that certain fencing be installed to surround swimming pools. There were at that point three types of fencing, which were known as categories 1, 2 and 3. Category 1 is termed isolation fencing. Under that category, the swimming pool itself has a separate fence that is 1.2 metres high, and it isolates the pool from the rest of the property. Category 2 fencing is called barrier fencing and relates to homes with self-closing doors and windows that open only a certain distance. Category 3 fencing is known as perimeter fencing and is fencing to the perimeter of a property. Until 1992, about 72 000 swimming pools had only perimeter fencing. Since that date, further swimming pools have been installed. As I said before, owners decided of their own volition whether to install isolation fencing.

This Government went down a path of trying to insist that all homes with swimming pools have isolation fencing. I suggest that the Minister for Local Government and Regional Development, Hon Tom Stephens, placed himself in an awkward situation. He advocated certain things to a standing committee of this House. Of course, it was up to the members of that committee to decide whether to take note of what the minister was

saying. I believe that the minister placed himself in a very awkward situation and was in need of a report from the standing committee that said certain things. That is exactly what happened. Report No 6 of the Standing Committee on Environment and Public Affairs, dated December 2002, made six recommendations. Recommendation 1 states -

**The Committee recommends that Category 2 - barrier fencing, that allows the use of self-closing and latching doors and protected windows, which comply with Australian Standard . . . be made lawful for all pools, including those built after November 5 2001, and for new pools.**

The committee recommended that it not be obligatory for properties with swimming pools to have isolation fencing. Recommendation 2 states -

**The Committee recommends that the Minister for Local Government revise the regulations to this effect as soon as possible.**

Recommendation 3 states -

**The Committee recommends that the *Building Amendment Regulations (No. 2) 2001* that requires all swimming pools with Category 3 - perimeter fencing (that is, those pools built prior to July 1 1992) to be updated to Category 2 - barrier fencing by December 17 2006, remain in force.**

That is something to which this House had previously agreed. The Government set the date of 17 December 2006, which is more than two years away. I will talk about that a little more in a moment.

Recommendation 4 states -

**The Committee recommends that the Government establish a home swimming pool safety advisory group that includes major stakeholders, along the lines suggested by the RLSSA.**

Recommendation 5 states -

**The Committee recommends that the Government provide resources to the RLSSA so it can provide the executive support for any home swimming pool safety advisory group that is established.**

I am not aware that the Government at this point has accepted and acted upon recommendations 4 and 5. Returning to recommendation 3, there is now an insistence by way of regulation that the owners of the 72 000 pools built prior to 1 July 1992 install self-closing doors and ensure that the windows can be latched at, I believe, 100 millimetres in an open position. I imagine that, since this became law, a great number of those 72 000 property owners may have forgotten that in a little over two years they will be faced with some considerable expense. I wonder whether it is the intention of the Government to start reminding them of this now so that they can start putting aside money over the next two years -

Hon Peter Foss: I have already had to do something.

Hon RAY HALLIGAN: It is obligatory that it be completed by December 2006.

Hon Peter Foss interjected.

Hon RAY HALLIGAN: Certainly, people who are putting in new pools must put in isolation fencing. I admit that I have not contacted any of the associations to find out whether there are problems on smaller blocks that have little room for a separate fence.

Hon Peter Foss: You step out my son's side door and instantly are presented with a pool fence that you have to open. He has had to put in a gate, so that he goes through this double airlock.

Hon RAY HALLIGAN: These are some of the problems. Some will be able to be overcome, but people who do not believe they can overcome those problems, because they will lead to some considerable expense, have decided not to bother to put in a pool and may have put in a spa instead.

Hon Peter Foss: Or a fish pond.

Hon RAY HALLIGAN: Yes, or a fish pond, which of course does not have to be fenced.

Hon Nick Griffiths: Hon Max Evans converted his swimming pool to a fish pond. I just wonder what sort of fencing he has around that.

Hon Peter Foss: He doesn't need one because it is a fish pond.

Hon RAY HALLIGAN: This has been one of the difficulties.

Hon Paddy Embry: Does he swim in his fish pond?

Hon Peter Foss: No.

Hon Derrick Tomlinson: And the last child who drowned at Kwinana drowned in a fish pond.

Hon RAY HALLIGAN: This issue was brought to the attention of the Government when the matter was being debated. A disallowance motion was moved in this place and a number of members spoke on it and brought to the attention of the Government exactly those issues; that is, Hyde Park, the ocean, the Swan River and many ponds are not fenced. There was a general acceptance that the major problem revolved around the parents and carers of these young children, and that nothing could be done to abrogate their responsibility to look after their children.

The regulations indicate that disabled people may not need to have isolation fencing, because they are in wheelchairs and would not be able to access their pool. However, what would happen if those people had relatives with young children who wanted to utilise the pool? It could be catastrophic, and often is, when people become complacent. When there is a situation in which one pool is fenced and another is not, people move between the two and allow the children to just go running outside the back door into what becomes the unknown. In his statement to this place on 4 March 2003, the Minister for Local Government tried to suggest the issue had multi-party support. He had created a rod for his own back. The committee reported on a second occasion, and provided him with what he wanted, but then he had to go back. His statement reads -

However, the Government is of the view that a lack of statistical evidence is not a sufficient reason to amend the Government's policy on isolation fencing.

I gained the distinct impression that the minister was at odds with his own Government on this issue.

Hon Nick Griffiths: That is not true. You may have had that impression, but the minister is always in agreement with the Government.

Hon Simon O'Brien: Is the Government always in agreement with the minister?

Hon RAY HALLIGAN: Probably not. The minister has made this statement to try to ease the burden for himself, probably to ease his own conscience, because he had said certain things. This was his way of saying that the Government has decided that its policy is to go down this path; it may not be that of the minister. Other issues were brought up during the debate, to which the Government had no answers but, having put the matter to a standing committee that has members from both sides of the House and the minor parties, he calls it multi-party support. The toddler deaths were most unfortunate, but it was found during the committee's deliberations that the statistics provided by reputable sources showed that any number of those toddler deaths occurred in pools with isolation fencing. It was not to be the panacea. For political expediency, the minister has gone down a particular path. He tried to placate the swimming pool builders by saying he was on their side. He tried to show that he was very concerned about the toddler deaths, and I am sure he was genuine in that. However, it was a matter of trying to bring everything together and provide to the people of Western Australia legislation that would either correct the situation, or not place them in a position in which they would be burdened with exorbitant costs for no real end. If the legislation will not achieve what the Government hopes it will achieve, why go down that path and expend all those funds? Why not look for other ways and means of overcoming the problem?

I refer again to the minister's statement, in which he said -

I advise the House that the Government has decided to maintain a mandatory requirement for isolation fencing around new swimming pools. This decision was based largely upon instinctive confidence that the additional barrier around a swimming pool that isolation fencing represents must help save lives.

Hon Peter Foss: It sounds as though he had a hunch.

Hon RAY HALLIGAN: Exactly. We could have gone down the path of compelling people to fill in all swimming pools, forcing everyone to use the beach. This legislation must save lives. The minister continued -

I recognise that the findings of the standing committee's report were based upon the currently available statistics on drownings in backyard pools.

Hon Peter Foss: Science; it is not as good as instinct.

Hon RAY HALLIGAN: Exactly. The minister continued -

However, the Government is of the view that a lack of statistical evidence is not a sufficient reason to amend the Government's policy on isolation fencing.

That amounts to the Government putting its head down, saying that was the direction in which it intended to go and no amount of argument, good, bad or indifferent, would change its mind.

A report was presented by the Standing Committee on Environment and Public Affairs into swimming pool fencing which provided very good evidence and, I suggest, good recommendations on what should be done. However, the Government, purely for political reasons -

Hon Peter Foss: It was stupidity.

Hon RAY HALLIGAN: The minister was certainly hopping from one foot to the other during that period. We have been told it was not for political reasons, but it is my belief that it most definitely was. The minister placed himself in a very difficult situation, from which he believes he extricated himself.

I return to the third recommendation; that is, barrier fencing be upgraded by December 2006, which is a little over two years away. Will the Government start an advertising campaign to advise people that if they do not have at least barrier fencing around their swimming pools, they had better start saving money or do the work now, and not leave it until November 2006 when 72 000 people in the community will be seeking tradespeople to put in barrier fencing. I think it would be a good idea -

Hon Nick Griffiths: You want some more government advertising!

Hon RAY HALLIGAN: It would be good management and astute of the Government to tell the community now what it should be doing.

Hon Peter Foss: Stop all the other stuff and just do this one.

Hon RAY HALLIGAN: This is more important than a lot of the social issues.

Hon Peter Foss: It is children's lives.

Hon RAY HALLIGAN: Exactly.

Hon Simon O'Brien: Skip the New MetroRail ads with that blooming kid!

Hon RAY HALLIGAN: The minister should start doing that. It is important that the Government, having now made this regulation law, show its concern for toddler deaths. Of course, the Opposition did not succeed with its disallowance motion.

Hon Peter Foss: We need higher and better fences on the railway. People who wander across level crossings could be electrocuted. I am waiting for the day that toddlers start doing that.

Hon RAY HALLIGAN: There are any number of ways in which people can dispatch themselves from this earth. I hope the Government is committed, as it said it is, to reducing the number of toddler deaths through this means.

**Progress reported and leave granted to sit again.**