

**FISH RESOURCES MANAGEMENT ESPERANCE ROCK LOBSTER FISHERY MANAGEMENT  
PLAN AMENDMENT 2000**

*Motion for Disallowance*

Pursuant to Standing Order No 152(b), the following motion by Hon Giz Watson was moved pro forma on 18 October -

That the Fish Resources Management Esperance Rock Lobster Fishery Management Plan Amendment 2000 published in the *Gazette* on 27 September 2000 and tabled in the Legislative Council on 10 October 2000 under the Fish Resources Management Act 1994, be and is hereby disallowed.

**HON GIZ WATSON** (North Metropolitan) [2.50 am]: I moved this disallowance motion on the Notice Paper in a bid to disallow an amendment to the Esperance Rock Lobster Fishery Management Plan 2000. I moved this disallowance because some of the crayfish licence holders in that Esperance fishery raised concerns that the amendment would create problems with the sustainability of that fishery, and could lead to an overexploitation of that resource. The principal issue those people have with the amendment that I am seeking to disallow is that in the current situation, if there is a change of ownership of licences in this fishery, a 10 per cent reduction is included in the overall licences held. This is a management process that has operated for a while, and which sought to reduce the number of pots in the fishery. The fishery currently has a large over-capacity - that is, I believe there are 11 available licences, but only four of those licences are actively fished. The other important point is that the current catch rate has dropped dramatically. The catch rate for 1999-2000 is about half that of five years ago. These licence holders are concerned that if this amendment goes through, it will serve to remove the reducing capacity of the exchange of licences. I refer to a letter that I received from a licence holder in that fishery, who said -

Fisheries claim that the fishery can't be over exploited as they believe the recruitment comes from S.A. Vic and Tasmania. There is no evidence to support this. 45,000 lobsters tagged in SA. and not one caught this side of the State border.

C.S.I.R.O. could not give an indication that larva from the eastern States would end up in W.A.

The letter goes on to say that in -

Every single management meeting which is held annually with the Fisheries Dept, the Dept has voiced concerns over over-fishing, including a call to reduce the latent effort in 1995. The current changes mobilise all the unused latent effort - a complete backflip by Fisheries Dept. A change which will lead to a doubling of the fishing effort not a reduction.

...

Proposal is a very short term view leading to a capital gain by majority of the licence holders so they have voted for it. It has nothing to do with sustainability. Basically a get rich quick scheme.

There are two aspects to this issue. First, the amalgamation of these licences will serve to be only a financial gain, and the risk is that it will jeopardise the sustainability of fisheries; the second is a challenge to Fisheries WA on its assumption that this fishery is not dependent on local recruitment, that is, the recruitment for rock lobster fishing comes from outside the area. One of the claims by Fisheries WA is that this measure will not jeopardise the sustainability of the catch. I guess sufficient has been put before me to raise enough concern not only for the sustainability of the fishery, but also for the environmental implications of jeopardising stock. If stock is heavily over-exploited, it can collapse to a point from which it will not recover.

The licence holders also raised the point that the stock of the same variety of crayfish has been overfished in New Zealand. The Esperance fishery is fairly sparse and it is acknowledged by all that this latent effort remains at that fishery. I cannot support any moves that will prevent a reduction in that latent effort.

Hon Mark Nevill: What do you mean by "latent effort"?

Hon GIZ WATSON: Pots that are held but are not actively used. A large number of licences are held and the concern is that if they were all used now, it would have a very heavy impact on that resource.

Finally, I refer to a section from the 1995 management minutes for this fishery, which refers to latent effort -

Latent effort in the Esperance Limited Entry fishery must be closely monitored. The Chairman acknowledged that effort in the Fishery is strongly dependant on weather conditions, but informed the meeting that removing latent effort in a fishery should be the basis for any initial effort reduction.

I ask members to consider supporting this disallowance.

Hon J.A. Scott: Is this being done without proper research into restocking?

Hon GIZ WATSON: There is conjecture about the source of the larvae for the stocking. Fisheries WA claims that the larvae come in from outside the fishery zone and that the dangers of over-exploiting the resource are not as severe as some claim. Whereas, I have been provided with information indicating that there is no evidence that the larvae come in from outside the area.

I ask members to consider supporting this disallowance motion which will require that Fisheries WA not remove this mechanism that seems to be working well by taking that latent effort out of the fishery.

**HON KIM CHANCE** (Agricultural) [3.00 am]: This is a complicated matter and one that I will attempt to deal with as quickly as I can. I have no disagreements whatsoever with the points raised by Hon Giz Watson. I have consulted extensively on this matter and I went to Esperance to speak to the people who first encouraged us to bring forward a disallowance. In the end, I chose not to move such a motion, but I made that decision only after consulting extensively with parties on both sides of the argument; namely, Fisheries WA and the Western Australian Fishery Industry Council. I discussed the matter with Hon Giz Watson and I told her that, notwithstanding that the Labor Party was unlikely to support a disallowance motion, I encouraged her to move the motion so that the House could explore the issues. I had not expected at the time that debate would be held at 3.00 am. Necessarily, the discussion will have to be curtailed.

The points made by Hon Giz Watson are correct. The proponents of the disallowance motion have given cogent and genuine reasons why it should be passed. The Labor Party has two reasons for differing from their view. Although I think the proponents have chosen a matter of principle on which to stand - I agree with the principle - a conflict of principles is operating here. The Labor Party has had to weigh the differing values of principle and it has decided to come down on the side of the original regulation and to oppose the disallowance. The principal reason for that is that the Fish Resources Management Act is a very good statute that enjoys bilateral support in Parliament in both its spirit and letter. Its processes have the support of Parliament. This outcome is the result of an accurate and faithful following of that process. In itself, that is reason to take seriously any attempt to overcome it. In the past, I have sought to overturn regulations in this portfolio, but only when I believed a deficiency of process was involved. This decision has no serious deficiency. On that basis, and on the basis of the assessment of the equity issues referred to by Hon Giz Watson, I felt the weight of evidence fell against this motion.

The equity issue is a matter that arose not by any force of argument from either the proponents or the opponents of the plan, but rather it occurred to me that, after having heard the arguments, it was the most serious issue. A proposed new plan sets in concrete a partially completed process of removing pots on transfer. There were 10 licences and each was valid for 60 pots. The requirement of the plan was that when the licences were transferred to another party, the 60 pots were cut down to 50, and it became an ongoing process. That process is approximately half finished. If it is put into place now, the share of the fishery that is owned by those persons who have never transferred their licence comes out larger than the share of the fishery that is owned by persons who started from exactly the same point and have transferred. That seemed to be inequitable, and it is inequitable. Therein lies another conflict of principle.

I have spoken extensively with Fisheries on this matter, including the fisheries manager who designed this scheme in consultation with the participants. I am assured that the matter was taken into account. I regret, and I believe they regret, that this matter has been left over. However, it is an unresolved issue of principle, and it is an unresolved inequity, but we must weigh against that admitted inequity the fact that those persons most disadvantaged by that loading are the proponents of the plan, and those most advantaged by the inequity are the opponents of the plan. It turns logic on its head somewhat. This is quite clearly demonstrated by an analysis of the outcomes which was prepared for me by Fisheries. It nonetheless does not detract from the fact that an important principle of equity in fisheries management has been breached. I must set that aside in the hope that this plan can proceed.

The issue of science and the lack of research has been raised. Of course, we would all like to see plans generated on appropriate scientific bases. The fact is this is a small fishery. Cost recovery is a fact of life in fisheries management. The fishery is too small to be able to afford the extent of scientific management that we would all like to see. The cost for that in that part of the world would be very high. It would be a hugely challenging task to try to determine the scientific make-up of that fishery.

We do not know whether this fishery is under threat because we do not have enough scientific evidence to determine whether the fishery is under threat. Obviously, that threat is of first interest to Hon Giz Watson because of the sustainability question. The proponents of the disallowance motion came to us and sought disallowance, as Hon Giz Watson said, because they feared that the plan would convert latent effort into real effort and thus increase pressure on the fishery. They are right. I have no disagreement with that outcome. Our disagreement is that it is an inappropriate way to manage pressure on a particular stock. If a resource quantity

argument needs to be addressed, it should be addressed directly. If we are to try to reduce effort, we should be applying it across the board, not simply to people who have, for one reason or another, a need to change the corporate arrangement under which they hold their licences.

That is a much-shortened version of what I wanted to say. I have tried to do justice to the issue, but it is a big issue. In looking at the nature of this fishery, I had to keep correcting myself because my culture in the rock lobster industry is, as it is for most of us, based on the west coast, which is a very different fishery. The argument was put to me that this fishery is so tough, so difficult and so dangerous that it protects itself. This fishery does not entail lolling around in warm, shallow and pleasant waters off the Abrolhos, Geraldton, Fremantle or Bunbury. This is fishing on the shelf in the most dangerous ocean on earth. It is a freezing cold, difficult and dangerous place to be.

Sometimes it is impossible to fish there even when the weather is good because the tides start to move. The tides take the ropes and the float markers to such a depth that when recovered with the drag, the float comes up compressed to the size of a cricket ball. That is the kind of depth involved. There is reason to imagine that such a hostile environment may protect the stock numbers, but we cannot quantify that scientifically. Maybe the additional effort, which I admit will result from this plan, may cause deterioration in the stock levels; however, if that is the case, we should handle it in a more appropriate way than retaining the current approach and not amending the plan. Therefore, the Labor Party opposes the disallowance motion.

**HON M.J. CRIDDLE** (Agricultural - Minister for Transport) [3.11 am]: The Government also opposes the disallowance motion. Three main amendments are involved in the plan: The removal of a 10 per cent pot reduction on the transfer of operations; a provision for variation in the season timing; and a correction of a species name. Sustainability is not an issue as recruitment is done from Victoria, South Australia and Tasmania. Seven rather than 10 licences were being fished in 1999-2000. In fact, Fisheries Western Australia scientists, who are recognised around the world as experts, are confident that sustainability will not be at risk. The majority of recruitment comes from outside Western Australia. The nature of the fishery discourages an increased use of fishing efficiency or latent effort. This sparse, deepwater fishery discourages investment in new vessels and expensive technology to increase catches. The fishery does not generate the returns enjoyed on the west coast fishery, which is wealthy and allows the investment in new boats and technology to increase the fishing efficiency. The removal of anti-competitive pot transfer arrangements will allow operators maximum flexibility in running their businesses. Fishery management cannot be retrospective and must move forward. The Government opposes the motion.

**HON GIZ WATSON** (North Metropolitan) [3.13 am]: I listened with interest to the comments by the minister and Hon Kim Chance. I hope they are right, and that this amendment will not have a negative impact on the resource and therefore the local ecology. Although the disallowance will not succeed, I suggest the Government take a very careful note of any changes in the catch in this fishery. Other mechanisms under fisheries management can be used to adjust the effort if an impact is shown. I suggest the department be very alert to take such measures should the effort be increased. I hear the argument about this being a difficult fishery and the resource being sparse. However, the fact the resource is sparse is exactly why one needs to be careful with it.

I conclude on a cautionary note: The southern shark fishery in the same sort of waters is on the brink of collapse. Despite all the claims about Fisheries WA scientists being the best in the world - I know some of them, and they are very good scientists - we kid ourselves if we think we have all the answers. Fisheries management is a difficult area. We already have examples in Western Australia, particularly in the shark fishery and pilchard fishery industries, in which we have overstepped the mark. The consequences of that are yet to be realised.

Question put and negatived.