

**CLAUSE 5 OF THE FISH RESOURCES MANAGEMENT AMENDMENT REGULATIONS (NO 8)
2002**

Statement by Minister for Agriculture, Forestry and Fisheries

HON KIM CHANCE (Agricultural - Minister for Agriculture, Forestry and Fisheries) [12.15 pm] - by leave: I have chosen to bring forward onto the Notice Paper the question raised in the disallowance motion of this regulation, although members will notice that some eight days remain before the motion matures and becomes a matter for discussion in the normal way. The reason for that is the fee increase, which arrives as a result of part of this regulation, falls due for about one-third of licensed fishing boat operations; that is, the sector of licensed fishing boats that are engaged in the rock lobster industry. Because the industry fee is due on 30 September, it is necessary to settle questions related to this disallowance now.

The regulation I referred to introduces a new fee of \$550, which applies to all licensed fishing boats except those under 6.5 metres, for which it is proposed the fee will be \$85. The Government chose that figure to do two things: first, to provide some equity with other licensees in the charter fishing industry who pay a fee for access to the industry of about that sum - I think it is \$500 - and, secondly, to provide some return to the public for the privilege of access to the open west coast fishery.

Open west coast licences - that is, a licence a person must hold to be a licensed fisherman - trade within the industry at prices generally around \$60 000 a year. The industry is separate from all the endorsement industries that fall under management, such as rock lobster, shark and purse seine. It is an industry that, in its distilled form, is worth about \$14 million a year. It costs a great deal of money to administer -

Hon Murray Criddle: Are you talking about wet line?

Hon KIM CHANCE: The wet line fishery and unmanaged fisheries generally. There are some minor fisheries in addition to wet line, but principally it is the wet line industry. A shorthand term used to describe it is the vanilla-flavoured industry; that is, the plain version of a fishing boat licence that is expressed in the terms of an open west coast licence. It is an expensive industry to manage. The State gets very little return from that industry and from the right of access that the State provides to those individuals who buy a licence on the private market to engage in the industry. The reason the Government sought to introduce the fee of \$550 was, as I said, to give some expression to that right of privilege. I referred to the vanilla-flavoured - or, if one likes, the wet line - and minor fisheries industries separately as unmanaged industries, because technically they are unmanaged fisheries.

I will give the House two or three examples of the managed fisheries. A cost-recovery process applies to that industry, which allows the Government to collect a fee for the management costs relating to that industry. That is all done within the management plan, which is a matter that comes before the Parliament as a regulation. In respect of the fisheries covered under the open west coast licence, no such fee is collected, no such return to the public is made and no such contribution to the cost of management is made by the people who have the privilege of access to the wet line industry and the minor fisheries that are attached.

The regulation to which the disallowance motion applies was amended to try to give some recognition to that fact and to create some equity for charter fishermen who pay a fee of around \$500 a year for a similar privilege. When that fee was originally introduced, it is true to say that it was not done with a high level of consultation with the industry. Indeed, the amount of consultation that occurred was late in the day and really could not be called consultation. It was more in the way of advice that this would happen, and that advice was provided only within days of the regulation taking effect. The reason for that is that, as a fee, it was a component of the budget, and, as a budgetary matter, it was difficult to disclose a part of the budget in the consultative process in the way that we have become used to doing with managed fisheries. Consequently, the fishing industry took exception to the fee and asked the Government to have another look at it.

At this point, I acknowledge the skill and maturity with which the industry approached the Government on this question. Clearly, the industry had a grievance. One could argue that it was a legitimate grievance.

Hon Murray Criddle: It certainly let us know.

Hon KIM CHANCE: Yes. Similarly, one could argue that the Government had a reason for doing those things. The question of how it did them is perhaps arguable. At that point, the Western Rock Lobster Council, the Western Australian Fishing Industry Council and, indeed, the shadow Minister for Fisheries, Hon Bruce Donaldson, raised these issues with government in a fair but vigorous way. With the cooperation of Hon Bruce Donaldson, we have worked our way through the issues that were presented. The Government had an argument to put, as did the industry. In the end, we have reached a position with which both sides are comfortable.

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Without going through the process, I will table a sheath of documents. There are in fact three documents. One is a very brief e-mail from Ms Vikki Gates from the WA Fishing Industry Council confirming agreement by both the Fishing Industry Council and the Western Rock Lobster Council to the proposition that we put together. The other two documents are my letters, one of which is to Ms Vikki Gates of the Western Australian Fishing Industry Council and the other to Mr Steve Gill, the Executive Officer of the Western Rock Lobster Council. I provided copies of these documents to Hon Bruce Donaldson just before Parliament sat.

Hon Murray Criddle interjected.

Hon KIM CHANCE: I thank the member.

The arrangement we have reached is set out in the first dot point of those letters, in which I state -

The agreed position is:

- . That I will approve an amendment to the *Fish Resources Management Regulations 1995* (FRMR) to introduce a reduced fee for the grant/renewal of an FBL, -

That is a fishing boat licence -

which apart from a very few exceptions, provides for access to the 'open access fisheries'. The reduced fees for a boat of 6.5m or larger will be \$315, -

That is down from \$550 -

and for a boat less than 6.5m (dinghy) of \$85.

The letters go on in greater detail to spell out the agreement, but that is the essence of it.

I will table those documents, and in doing so I thank Hon Bruce Donaldson for his assistance and stewardship in this matter. I also publicly acknowledge the role that the Western Australian Fishing Industry Council and the Western Rock Lobster Council have both played in their negotiations with government on this matter. I note particularly - I am sure that Hon Bruce Donaldson will want to do this as well - that this is the first major political win for the Western Rock Lobster Council - a relatively new player in the industry lobby groups. Steve Gill and his people conducted themselves admirably, and I am happy to acknowledge their leading role in negotiating this better position for the industry. I table the three documents in one sheath.

[See paper No 272.]

Motion for Disallowance

Pursuant to Standing Order No 152(b), the following motion by Hon Bruce Donaldson was moved pro forma on 24 September -

That clause 5 of the Fish Resources Management Amendment Regulations (No 8) 2002 published in the *Gazette* on 10 September 2002 and tabled in the Legislative Council on 17 September 2002 under the Fish Resources Management Act 1994, be and is hereby disallowed.

HON BRUCE DONALDSON (Agricultural) [12.26 pm]: I give the same recognition to the industry, and both the Western Rock Lobster Council and the WA Fishing Industry Council. I also acknowledge a number of individual fishermen. The whole debate centred around the fact that there was a lack of consultation. People said that they were not against an access fee being paid. However, the problem was that a figure was arbitrarily plucked out of the air, and there was no real accountability or transparency in where that money would be spent. It is important that commonsense has been the winner in this argument and debate. It is important for us to remember that. It is a valuable lesson for all of us, whether it be ministers or government agencies. It saddens me sometimes to see the adversarial approach by government agencies and the industry, which purport to have a good relationship in being able to manage fisheries. They have a good track record.

In the off-the-cuff discussions that I had with the minister, I was delighted that he recognised that the industry and I were not just crying wolf but had a very valid argument to put. There is a grey area. I am sure the minister will well remember that, when he was shadow Minister for Fisheries, a number of issues were raised. I am sure that he had a memory recall when I said certain things to him. He would have been thinking, "Hang on. If I were in Bruce's position, I would be doing the same thing on behalf of the industry." That is what it boiled down to. It is pleasing that the minister has admitted that the consultation had not been in the best manner possible.

Hon Kim Chance: It hardly existed at all.

Hon BRUCE DONALDSON: The fact is that the minister made sure that meetings took place on the Friday, on the Tuesday and again yesterday morning. I was advised by both associations that they had agreed to the

changes by lunchtime yesterday. It gives some validity to my argument about this grey area regarding a fee and what is regarded as a tax. A fee for service is always a clouded issue. I remember when I was a member of the Joint Standing Committee on Delegated Legislation that we dealt with the Bunbury port loader issue. A fee was being raised for the service of that loader, and it had not even been purchased. It was quite a grey area that we had to work through. As the industry using the loader had agreed, it was allowed to proceed. In that sense, this was a good example of what did not happen this time. It was pre-emptive. There will be a number of recommendations in the forthcoming Toohey report about the management of the wet line fishery and other resource management.

One of the difficulties I had in moving that clause 5 of the Fish Resources Management Amendment Regulations (No 8) 2002 be disallowed is that it is in two parts: 5A and 5B. Under standing orders I could not disallow just clause 5B, which concerns the new access fee. Clause 5B concerns a formula used each year in the unit pricing that rock lobster fishermen pay to manage the fishery. The fishery is recognised as the best managed in the world. While fishermen grizzle most years about the unit fee, they received a \$7 reduction for each unit this year. That amounts to about \$400 000. It is rightfully theirs; it is not a handout from the Government or the Department of Fisheries. It is a laid down formula. On a three-year rolling average, we might see an increase from \$131 to \$143 next year. We will not know until the averages are worked out.

The minister and I debated who would win out over a disallowance motion. By the same token, if it had gone ahead, it would have been denied to the rock lobster fishermen this year. I appreciate getting copies of the letters the minister has written to both organisations pointing out the agreement. I have kept to my bargain. I said I would seek to withdraw the motion for disallowance.

The DEPUTY PRESIDENT (Hon George Cash): As a point of clarification, the motion has been moved pro forma. I will explain shortly that it will have to be voted against.

Hon BRUCE DONALDSON: I am sorry, I did not realise. I had better retract my last few words as it will not now be debated. We will not support the disallowance because the industry is happy with what has happened. It is a significant sum of money; about \$400 000 will be saved by fishing boat licence holders this year. The managed wet line fishery and the services required will also benefit. It is the result of the agreement between the minister at the time, Hon Monty House, and the Western Australian Fishing Industry Council. The formula was laid down by the agreement. It is a shame that this has not been treated in the same way. As I said, a person could score political points, but that is not the issue. The issue is that commonsense prevailed. I hope we can all learn the lesson that when fees are proposed or raised by a government agency, a consultative process must be put in place. This could all have been avoided if consultation had been arranged.

The fishing organisations see the accountability and transparency in the \$315 fee that has been established for boats 6.5 metres or longer. For dinghies up to 6.5 metres in length, the proposed fee of \$150 was reduced to \$85.

I see a win both ways, not only for the fishing industry but also for commonsense. Although I was unhappy at times with the industry and individual fishermen - Hon Murray Criddle would say the same - a good resolution has been achieved. Many people were surprised to learn that we were not just concerned about not having a fee. The industry, associations and individual fishermen told me that they were prepared to accept a fee as long as it was accountable and transparent and they knew where the money would be spent. That surprised recreational fishermen who think that commercial fishermen get the best of both worlds. That is a debate for another day. One day, commercial and recreational fishermen in this State will get rid of their adversarial positions and work towards the long-term future of the industry.

Hon Kim Chance: The Toohey report will help.

Hon BRUCE DONALDSON: I am looking forward to the release of that report. I am sure it has interesting recommendations.

The DEPUTY PRESIDENT: Before I call Hon Murray Criddle, I indicate that earlier today Hon Ray Halligan sought the leave of the House to withdraw two disallowance motions and gave short explanations of why the House should agree. In this case, when the President called the order of the day, the Leader of the House sought leave to make a short statement. I take his statement to be an explanation to the House of why this motion should be defeated. Hon Bruce Donaldson then spoke on the motion that the disallowance be agreed to. In due course, the House will have to vote against it if it wishes not to carry the disallowance motion. I explain this because the House has gone into considerable debate on the issue and it is not in a position to withdraw. I want to make the House aware of the way it should vote.

HON MURRAY CRIDDLE (Agricultural) [12.37 pm]: I will vote against the disallowance. Bearing in mind the progress made with the negotiations, I have received an enormous number of representations from fishermen. I was aware that Hon Bruce Donaldson had moved the disallowance motion. I have concerns about fees for

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privilege of access; however, that is a debate for another day. Having received approaches from both principal organisations in the industry, arrangements have been made for fees to be reduced to \$315. I understand there is an application fee of \$65 on top of that for both categories of vessels. That will make a total fee of \$380.

The formula for access was somewhat distorted because of the gross value of production of the lobster industry last year. That will put some pressure on licence fees for some of the smaller fisheries. There may be some distortions with the 1995 Cole House agreement because of that. It is an issue that the minister might like to look at in the future.

I recently spoke to an optimistic fisherman in Greenhead who had received an account for research for the next three years for something like \$5 000. He has already done the research. There seems to be a requirement for additional research that other people want to do. That is an impost on this fisherman. I will give the minister the details later. The industry has indicated to me that its members will pay this particular licence fee, but I cannot say that it indicated that they were terribly happy about it. However, the industry is pleased that the fee has been reduced through the negotiation process. The initial imposition without consultation was a great concern to those in the industry, but we have seen a good resolution. It is crucial that when fees or levies are raised from producers, they have a say about them and that there is transparency in the transactions. The minister would be aware that I am also talking about fees for things such as skeleton weed and so forth. This is yet another indication of the need for transparency. It has been an issue in the fishing industry for quite some time. I would be pleased to see the industry having a clear understanding of how and where the money is spent rather than being subjected to the department simply telling it what it should do. On that basis, I will not support the disallowance.

HON PETER FOSS (East Metropolitan) [12.41 pm]: I noticed that the minister started this debate with a statement to the House. I think that you, Mr Deputy President, have said that that statement was not a statement to the House but a speech.

The DEPUTY PRESIDENT (Hon George Cash): I said that, if necessary, I would take that to be the minister's speech against the disallowance of the regulations. The minister has not technically spoken to the question before the Chair, and if he wishes to speak, he can.

Hon PETER FOSS: That is very good. The point I raise is a result of that statement, and is a matter of some concern for us. We have a procedure for ministers to make statements - and one was made then - after which the Opposition Whip often stands and moves that the statement be made an order of the day for the next sitting of the House. Often that is the end of it. I am sure ministers would not make those statements unless they thought they were useful matters of interest to the House. Similarly, I am sure the Whip would not move that the statement be made an order of the day for the next sitting of the House if he did not think that it would be a useful matter for debate. In these busy times of the House, we tend not to list those statements for hearing. I wonder whether the House might like to consider those statements. I was concerned that we might not be able to debate what was said by Hon Kim Chance. We passed over the committee reports earlier today because they had only just been tabled. It struck me that that might be an appropriate time to deal with ministerial statements. The hour is set aside and, if there was time, we could bring the ministerial statements on after debate on the committee reports had concluded. It would be useful. We often hear some useful matter in the course of these debates and ministerial statements. It would be useful if there were an opportunity to debate those, if people sought to do so, without interrupting the general business of the House.

Hon Kim Chance: We would support that.

Hon PETER FOSS: The minister will make a speech on this motion and we have had the opportunity to speak on this matter - Hon Bruce Donaldson has enlightened the House - so perhaps this point is not as useful as might otherwise have been the case.

HON GIZ WATSON (North Metropolitan) [12.43 pm]: I was in two minds about whether to speak on this disallowance motion. The minister has indicated that the matter will be dealt with in a specific way. The Greens (WA) had no problem with supporting the intention of the Department of Fisheries to levy a fee from the holders of that particular boat licence. We recognise that there is a clear need to provide a means of better management of that fishery. It is under a lot of pressure from both the commercial and recreational fishing effort. We were happy to consider the proposal and oppose a disallowance. We understand the technical issues about the question of a tax not being pursued by the correct method. We are happy to look at ways of improving management in that particular fishery and ensuring that adequate funding is provided for the research that will be required to ensure the fishing effort is sustainable. It is an issue that I have raised in this place before. I do not think that, for the resource that is extracted and the commercial benefit that is gained, enough is put back into research into sustainability management. It does not matter which sector of the fishing industry we are talking

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about - prawn, abalone or whatever - the percentage that is taken from the fishermen is very small for the financial benefit that is accrued from that resource, which of course is owned by everyone.

On that note, I had indicated to the minister's advisers that the Greens supported the intention of the levy and were happy to work to achieve that outcome. I think we are still going to do that but in a slightly different manner from what was originally proposed. We are happy to assist the Department of Fisheries in that objective and will consider any measures to improve the management of fisheries and put a greater emphasis on providing finances to ensure sustainable fishing.

HON KIM CHANCE (Agricultural - Minister for Agriculture, Forestry and Fisheries) [12.46 pm]: I am speaking to the motion on this occasion! I am sorry for this unusual way of dealing with the matter. I am almost in the position of summing up another member's motion. A couple of issues arose that I need to address. I used the term "privilege of access", and Hon Murray Criddle picked up on the attitude of the fishing industry to the question of a fee for privilege of access. I think there needs to be some clarity. Nothing in the agreement I tabled, as represented in those letters, imputes in any way that the fishing industry accepts the question of a fee for privilege of access. To be fair to the industry, I need to make it very clear that it is an argument of the Government that is not accepted in any way by the industry.

Hon Giz Watson made some very good points about the research cost. The very reason we introduced this fee was to enable us to gear up for the research effort that will be required to implement management of the wet line industry following the release of the Toohey committee report. I have already received a draft of that report so it will not be too long before it is released. That will be the keystone to enable us to introduce integrated management in the wet line, or fin fish, fishery. It will be an expensive process. At a fee of \$550, we were seeking to raise more money than we could justify in terms of transparency. That figure can be justified at around \$315, which is why we have now selected that figure. We aimed for a higher figure to gear up for a greater level of research development. We have come to other arrangements with the industry about how that will be done. That is the reason we went for that higher figure. I acknowledge that because it was a budget issue, it was extremely difficult for us to enter into the consultation process which we needed to enter into and which would have been more satisfactory to people.

Managed fisheries pay their way. They are charged out to industry on a cost-recovery basis and are not a burden on the taxpayer. The open west coast fishery is a burden on the taxpayer. The taxpayer pays the costs which should, if the fishery were dealt with in the same way as the major fisheries, be met by the fishing industry. Again, that is where we try to impute this concept of privilege of access. We still believe in the concept, but I do not want to give any indication at all to the House that the fishing industry accepts the concept. The fishing industry is prepared to pay identified costs with proper transparency and those things that flow from the Cole-House agreement, which has already been mentioned. The industry is not prepared to accept that there is an argument about privilege of access.

Question put and negatived.