



PARLIAMENT OF WESTERN AUSTRALIA

**TWENTY FOURTH REPORT**

**OF THE**

**STANDING COMMITTEE ON LEGISLATION**

**IN RELATION TO THE**

**DRAFT FISHERIES MANAGEMENT BILL 1993**

**Presented by the Hon Derrick Tomlinson (Chairman)**

**24**  
**MARCH 1994**

**Members of the Committee :**

Hon Derrick Tomlinson, MLC (Chairman)  
Hon Bill Stretch, MLC  
Hon Ross Lightfoot, MLC  
Hon Cheryl Davenport, MLC  
Hon John Cowdell, MLC

**Staff of the Committee :**

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**REPORT OF THE  
STANDING COMMITTEE ON LEGISLATION  
IN RELATION TO THE  
DRAFT FISHERIES MANAGEMENT BILL 1993**

**1. INTRODUCTION**

On Thursday, December 9, 1993 the Minister for Transport, the Hon Eric Charlton, MLC, by leave, made a Ministerial Statement concerning the draft Fisheries Management Bill 1993 and tabled a copy of the Bill together with an explanatory memorandum. The Minister then moved the following motion, which the House passed :-

**"That the draft Fisheries Management Bill be referred to the Standing Committee on Legislation for consideration and that it report back to the House on March 15, 1994."**

**2. RECOMMENDATIONS**

As a result of its examination of the draft Fisheries Management Bill 1993 ("Green Paper") the Standing Committee on Legislation recommends as follows :-

- 1. That the draft Fisheries Management Bill 1993 be returned to the Legislative Council.**
- 2. That the Legislative Council refer the Fisheries Management Bill 1993 to the Committee at an appropriate time when the Bill is before the Legislative Council, if it so desires.**

**3. COMMITTEE MEETINGS**

The Standing Committee on Legislation met on the following occasions to examine the Green Paper :-

Thursday, February 3, 1994 from 10.00 am to 12.20 pm  
Monday, February 21, 1994 from 10.12 am to 12.05 pm

#### **4. WITNESS TESTIMONY**

The following witnesses appeared before the Committee and gave oral testimony :-

Mr Peter Rogers, Executive Director, Fisheries Department  
Mr John Looby, Operations Manager, Fisheries Department  
Mr Michael McMullan, Fisheries Act Team, Fisheries Department

#### **5. FISHERIES MANAGEMENT BILL 1993**

At a meeting of the Standing Committee on Legislation on Monday, February 21, 1994, a resolution was passed not to proceed with a review of the Green Paper.

It was evident from witness testimony given by Mr Peter Rogers, Executive Director, Fisheries Department, Mr John Looby, Operations Manager, Fisheries Department and Mr Michael McMullan, Fisheries Act Team, Fisheries Department, that the Green Paper currently under review by the Committee may in fact differ, both in policy and content, from the Bill which will be presented to the Parliament.

The differences are a consequence of the incorporation of matters contained within submissions received from the fishing industry and members of the public. To facilitate the incorporation of such matters the Fisheries Department has established a taskforce for the purpose of formulating and amending matters of policy, principle and detail. Such components are the subject of constant amendment resulting in a succession of evolutionary changes throughout the body of the Green Paper.

Furthermore, the Minister for Fisheries, the Hon Monty House, MLA, has announced a review of the Fisheries Portfolio which will focus on the activities of the Fisheries Department. The review is to consider such matters as the policies of the Western Australian Government and legislative responsibilities; an evaluation of the likely future composition of the commercial fishing industry, recreational fishing and aquaculture, and priorities for future development; and the needs and requirements of these industries. A review of this nature may further impact on the formulation of policy, principle and detail of the Green Paper.

As a result of the continuing review and formulation of matters pertaining to policy, principle and detail by the Fisheries Department, and to some extent by the Ministerial review of the Fisheries Portfolio, the Committee is concerned that its own review of the early version of the Green Paper tabled in the Legislative Council may be non productive.

By definition, a green paper is a paper presented to Parliament by a Minister before an important debate, not as a declaration of policy, but as a basis for discussion. The Green Paper referred to this Committee is not definitive in the sense that it is subject to constant amendment by the Fisheries Department. Fundamental to the efficient and

effective operation of this Committee in reviewing legislation is the referral of legislation in its penultimate form. Currently, the Committee's Terms of Reference do not provide for its intervention at any stage during the formulation of policy and detail, a matter which must be addressed by the Legislative Council if this Committee is to operate in a proactive rather than a reactive capacity.

The role of the Standing Committee on Legislation is to consider principle and detail of legislation and where necessary, evaluate matters of policy. However, it is beyond this Committee's Terms of Reference, and therefore its authority, to review matters pertaining to the formulation of policy.

The distinct lack of finality associated with the Green Paper negates any pertinent review of policy, principal or detail by the Committee. Accordingly, until such time as there is a Bill referred by the Legislative Council to this Committee, it is inappropriate to proceed with a review of the Green Paper.

## **6. CONCLUSION**

The importance of the Green Paper was alluded to by the Minister for Transport, the Hon Eric Charlton, MLC in his Ministerial Statement where he stated that :-

"The draft legislation provides new management regimes for commercial fisheries, aquaculture, fish processing and recreational fishing. It is important that people who engage in these activities have the opportunity to make a contribution towards setting the directions of regulation and conservation of Western Australia's fishing resources."

Accordingly, this Committee recommends that the Fisheries Management Bill 1993 be referred to the Committee for consideration and review at an appropriate time after the Bill has been introduced into the Legislative Council.