

## Peter Rogers and Carey-Ann Harper Presentation on ARMA Legislation

### Accompanying Notes

Acknowledge primary initiative and funding support from WRL and assistance from DPIRD and WAFIC.

**Qualification (Slide 2):** This Brief was compiled by Dr. Peter Rogers on issues relating to the Aquatic Resources Management Bill. The principal author Dr. Peter Rogers is not a qualified lawyer, does not warrant that the information in this report is free from errors or omissions. The author does not accept any form of liability for the contents of this report or for any consequences arising from its use or any reliance placed upon it. This presentation is intended to provide background information and draws attention to areas of policy and legislation that warrants consideration and does not purport to provide final legal advice on any matter.

### Abbreviations (Slide 3)

Self-explanatory.

### Basis of Law (Slide 4)

Statute Law overrides Common Law, with Fisheries Management Law being modern law based on statutes passed by parliament. The Minister, as a member of executive government, is guided by Cabinet and the will of Parliament through statutes and disallowance of subsidiary legislation.

### What are the guiding instruments of fisheries legislation and policies? (Slide 5 & 6)

Australian and State Constitutions sets the boundaries of responsibilities but noted that the State Constitution provided no rights of compensation, whereas the Federal Constitution provides some direction on compensation.

Other relevant instruments:

- Inter-government agreements (e.g., Offshore Constitutional Settlement; Taxation, COAG; Ministerial Councils etc.)
- Regulations, Management Plans, orders and various notices, ministerial guidelines and policy documents (e.g., harvest strategies)
- The Statutes (Acts) passed by parliament.

Other guiding Instruments impacting decision making include Freedom of Information Act, State Administrative Appeals Tribunal, Administrative Law principles, a range of treaties, inter-government agreements, environmental standards, etc. Other statutes, notably EPBC Act, Health Act, Local Government, Occupational Health and various Marine Vessel and Safety legislation.

### Commencement of Legislative Overview – Heading – (Slide 7)

Title Page

## **What is ARMA? (Slide 8 & 9)**

This slide provides an overview of the ARMA 2016, noting that it will be the primary piece of legislation managing aquatic resources in WA. The ARMA legislation described simply combines the FRMA and Pearling Acts and adds a broader aquatic resource and biosecurity framework as depicted in slide 7. Primarily it is a “tool box” Act for the management of aquatic resources having less of a fisheries focus. The Parts of the Act covering Management of Fisheries, Aquaculture, Aquatic Habitat Protection, Abrolhos Islands, Register, Compliance, Legal Proceedings, Financial Provisions, Arrangements with other Jurisdictions, and Miscellaneous remain largely unchanged from the *Fish Resources Management Act 1994*. This presentation focuses on Parts 2, 3, 6, 13 and 18. These are the Objects of the Act, Managed Aquatic Resources, Aquatic Biosecurity, Administration and the Transitional Provisions. These are the areas of significant change within ARMA.

The real impact of the legislation evolves through the application of subsidiary legislation under the head powers provided by the Act. The management plans for all fisheries and aquatic resources are set down in subsidiary legislation supported by regulations and notices where appropriate in the former. The Minister for Fisheries has the prime responsibility on the behalf of Government to administer the fisheries legislation.

## **The Act provides the legal framework for improved governance in eight key policy areas (Slide 10 & 11):**

- Ensuring Ecological sustainability (obj.);
- Risk based Assessment and transparent, outcome focused resource use planning (obj.);
- Integration of resource protection and use across all sectors (Part 3);
- Security of Resource Access and Allocation of proportional harvest entitlements for the fishing sectors (Part 3);
- Management of aquaculture activities (Part 5);
- Protection from negative impacts of aquatic disease and harmful organisms (biosecurity), (Parts 6 and 8);
- Devolution and delegation of decision making (Parts 3 and 13); and
- Co-operative management arrangements with the non-government sector (Part 13) – which provide the opportunity for outsourcing of roles by the Department.

## **Benefits of ARMA (Slide 12)**

ARMA provides a holistic approach to management and explicit recognition of customary fishing priority access and public benefit use. Recognition of commercial and recreational sector allocations will be reliant on the Department’s ability to affect the compliance of the catch shares and catch targets. For example, the Western Rock Lobster Fishery recreational catch has probably exceeded the 5% recreational allocation. Much depends on the ability of

the Department and the Minister to take action. ARMA will provide strengthened fishing access rights, however this will apply to both commercial and recreational sectors. ARMA will also provide greater flexibility around the scale of management, as some fisheries could be merged under one framework.

**Some of the key outcomes of the ARMA Legislation of vital interest to Commercial fishers (Slide 13):**

All existing Management plans will continue until replaced by Aquatic Resource Use Plans under Part 3. Existing management plans can continue to be amended. In all likelihood potentially the following fisheries will receive priority in proceeding under Part 3. The pearling fishery (before the ARMA 2016 Act (as passed) is fully proclaimed. Most likely followed by the WRL fishery and the 4 demersal fin fish fisheries. Note that Government has not determined which resources are to follow pearling into the Managed Aquatic Resource framework at this stage. Priority resources to be transitioned will need to be determined having regard to current management arrangements (e.g., has there been an allocation decision, is the resource unitised or could it easily be unitised) in discussion with commercial and recreational fishers.

Most fisheries will not proceed under Part 3 of ARMA (author's opinion) as existing management arrangements under part 4 of ARMA will continue. For those predominantly taken by the commercial sector (e.g., pilchard) the case for change is more administrative rather than a resource sharing issue and can be effectively managed under Part 4, i.e., under existing provisions

All existing access entitlements continue with the exception of permissive licence conditions.

The '3 black mark' offence provisions continue under the FRMA provisions until individual fisheries management plans are replaced with an ARMS and ARUP's under part 3 of ARMA. At that time, it will be replaced with a surety system of penalty, much like a bonded security system which will allow the removal of the suspension aspect and replaced with a financial penalty (details provided elsewhere under the WRL ARMA risks paper).

Note that the black mark system applies to all authorisations. So, if an authorisation, such as a Fishing Master Licence, is required to fish under an ARUP, which licence is still subject to automatic suspension for 12 months if three convictions are recorded in a 10-year period. However, black marks don't apply to shares or catch entitlement under an ARUP.

Regulation licenses and management arrangements can be implemented as an additional instrument of resource management outside of Part 3 provisions.

There is considerable potential for co-management of aquatic resources (See ARMA Part 13) which can include transfer of decision making and the undertaking of specific functions with the support of the Minister.

It is noted that Part 10 of the FRMA covering designated fishing zones has not continued under the ARMA. These zones will lapse once the ARMA is proclaimed.

## **Part 2 – Objects (Slide 14)**

It is important for the commercial fishing community to be aware of the objects of the Act, as these guide all decision-making into the future.

The Objects of this Act are —

- (a) to ensure the ecological sustainability of the State’s aquatic resources and aquatic ecosystems for the benefit of present and future generations; and
- (b) to ensure that the State’s aquatic resources are managed, developed and used having regard to the economic, social and other benefits that the aquatic resources may provide.

Part (b) is open to interpretation as to what the ‘other benefits’ are. However, there continues to be ongoing emphasis by DPIRDs senior staff and the Minister on the importance of Community Social Licence to operate. Current policy development by DPIRD on Resource Allocation is expected to provide further clarity on the interpretation of clause (b) of the objects as it relates to aquatic resources.

## **Part 2 - Means of achieving objects of Act (Slide 15)**

The objects of this Act are to be achieved by —

- (a) conserving and protecting aquatic resources and aquatic ecosystems and where necessary, restoring aquatic ecosystems; and *(For example; removal of crown of thorn star fish on the Ningaloo Reef should it become an issue; Other examples include protection for Megafauna – e.g., whales, dolphins, turtles, etc.);*
- (b) managing aquatic resources and aquatic ecosystems on the basis of relevant scientific data and principles and; *(This is critical and will help facilitate measures such as TAC decisions based on scientific evidence and stock assessment work, basis of EPBC Act reporting requirements and Export Permit approvals largely following MSC assessments principles);*
- (c) encouraging the sustainable development of fishing, aquaculture and other activities reliant on aquatic resources; and
- (d) encouraging members of the public to actively participate in decisions about the management and conservation of aquatic resources and aquatic ecosystems; and *(Ensures consultation- see extensive consultation requirements under Part 3 of ARMA)*
- (e) ensuring that the interests of different sectors of the community that use aquatic resources or aquatic ecosystems are identified and considered; and
- (f) managing aquatic resources and aquatic ecosystems in a manner that is as practical, efficient and cost effective as possible.

## **Part 3 Managed Aquatic Resources - all licensees should read (Slide 16)**

All Authorization Holders should read Part 3 of the ARMA in its entirety. The author noted that it may take decades for all managed fisheries to migrate from the FRMA provisions to the ARMA provisions of resource management under Part 3 (if at all). Part 3 sets out the declaration of Aquatic Resource Management Strategy (ARMS), its content, period of consultation of the draft strategy and the determination of the subsequent final strategy;

The Part 3 content covers how a declared aquatic resource is to be managed, its main objective, minimum quantity for sustainability, activities for regulation, allocation for customary fishing and public benefits use, method of determining TAC, the proportions available for recreational and commercial fishing, and the number of shares available to commercial fishing, etc.

It also covers the requirement of the CEO to consult on the draft ARMS, to consider submissions and to re-submit an amended draft ARMS to the Minister and the approval process.

### **What is an ARMS (Aquatic Resource Management Strategy)? (Slide 17 & 18)**

It is a policy document (strategy) approved by the Minister at the 'whole-of-resource' level, with the key elements being:

- main objective for managing the resource;
- activities that are to be managed;
- how the resource is to be allocated;
- method for determining the TAC for the Recreational and Commercial sectors;
- how the status of the resource is to be assessed.

An example diagram on the resource use under an ARMS as outlined in slide 18 is not representative of any resource in particular but simply shows the scope of that which can be achieved. Note the potential to include bycatch in another commercial fishery or part of the catch of another fishery.

### **Part 3 – Managed Aquatic Resources – ARUPs (Slide 19)**

Within Part 3, the preparation of Aquatic Resource Use Plans (ARUPs) by the CEO and their content inclusive of all relevant detail for management of activity and allocation detail (similar to a management plan under the FRMA) is to be sent for approval by the Minister. Ultimately the Minister approves both the ARMS and ARUPs. Section 33 contains the requirement for the CEO to set the level of TAC for each prescribed fishing period, and flowing from this the respective quantum for commercial and recreational TAC and values per unit share, 30 days before fishing commences within Part 3. It is becoming increasingly clear that the harvest strategy will become the core instrument in legislation within the ARMS for an aquatic resource, specifying how the CEO determines the TAC as necessary, for each period (normally annually). This aspect will be further clarified as ARMS and ARUPs are developed by DPIRD.

Part 3 also includes other matters pertaining to revocation, future allocation of shares in a new ARUP, levels of penalties for breaches of an ARUP, the administration of entitlements and resource shares, their transfer and registration, including a system of surety being applied for individuals who breach the legislation. It was noted that an aquatic resource may have more than one ARUP.

One important advantage of an ARUP is this legislation overrides the Regulations enabling all rules for a commercial operation to potentially be found in one place with appropriate drafting.

### **What is an ARUP (Aquatic Resource Use Plan)? (Slide 20 & 21)**

An ARUP is an operational document which implements an ARMS and looks much like an existing 'Management Plan'. It can be sector specific i.e., commercial or recreational. Unless there is an ARMS in place, an ARUP cannot be implemented.

Slide 21 represents a pearl resource example covering the various elements of management. The take home message being the flexibility to design whatever management system is warranted for the aquatic resource in question. With appropriate drafting, all management requirements for a commercial resource could be found in one place, the relevant ARUP. The eventual finalisation of the pearling legislation under ARMA will be insightful for the rest of industry.

### **Resource Shares and Catch Entitlement (Slide 22 & 23)**

On commencement of an ARUP, persons meeting the allocation criteria are able to apply to have resource shares registered in their name.

At the start of each fishing period, registered shareholders are able to register Catch Entitlement (**CE**) in their name, which allows for easy management of the catch entitlement on a year-to-year basis. This will benefit leasing arrangements and it protects the rights of the shareholder.

Annual access fees are payable by the shareholder on registration of CE, and can be expressed as catch (e.g., kgs) or effort (e.g., days) etc. CE may be fished by the registered CE holder or transferred to another person. CE can be prescribed for any period within the ARMS for a resource but normally likely to be annual in most circumstances

CE can only be used during the fishing period for which it was issued and at the end of each fishing period, all unused CE 'disappears', and the holder of resource shares once again becomes eligible to register the next year's CE in their name etc. (assuming that CE is annual).

Resource shares are held for the life of an ARMS and are capable of being transferred to another entity.

Where an ARMS or ARUP is revoked, shareholders are granted 'share options' which must be considered under any new ARMS/ARUP for the resource. This is the main provision for enhanced access rights.

### **Example of ARMA Management Framework (Pearling) (Slide 24 & 25)**

These slides provide schematic examples of the ARMA management framework, noting that the ARMA was deferred due to a deficiency within the Act to be able to prescribe specific TAC within zones as a management tool. The ARMA 2016 legislation required amendment. These were passed in August 2021. Full proclamation of all provisions is expected by early 2023. This timing is fully dependent on finalising the ARMA Regulations and complete transition of any relevant subsidiary legislation.

It is also noted the ARMA Act is as a result of the 2021 Amendment Act, is open to review by parliament 5 years from the date of proclamation, i.e., at the earliest 2028.

The schematics prepared by DPIRD show the flow of authority from the legislation to the relevant parts of the Act to management and licencing of the relevant activity. The pearling example demonstrates the concept as to how the aquaculture provisions interface with wild capture fishing operations under an ARMS and ARUPs. The ARMS and ARUPs for pearling are currently being developed by DPIRD and the pearling industry as a prerequisite step for the full proclamation of ARMA.

### **Security Interests & Surety Provisions (Slide 26)**

This slide provides a brief overview of the inclusion of surety provisions under ARMA – a new feature that was not included under the FRMA. If an authorisation holder is charged or is convicted of an offence against Act (amongst others), then the CEO can require that authorisation holder to provide a surety. Sureties can be monetary in nature, resource shares or something else (to be prescribed). If an authorisation holder nominates a resource share that is already the subject of a security interest, then the CEO must give details of that nomination to the security holder. The security won't be registered unless 21 days have lapsed since those details were given, or the CEO receives written consent of the resource share holder & security holder in writing. Notably the Act appears silent on what occurs if the security interest holder object to resource share (which has a security interest on it) being put as surety. We suggest that an administrative guideline is made in this regard so that clarity is obtained.

### **Mandatory Court Confiscation – shares as surety (Slide 27 & 28)**

These slides discuss the consequences of someone being convicted of an offence against s 31(2) or (3) (the contravention of an ARUP or its regulations), or s 49(2) or (3) which relates to the contravening of a condition of an authorisation. The consequence of these convictions mean that the court must order that any surety for a relevant authorisation be forfeited to the State to the determined value. Determined value in that scenario means the number of resource shares in a managed resource that corresponds to the quantity of the resource for which the person did not hold catch entitlement, calculated in accordance with the regulations. There are three requirements of the court that must be satisfied before ordering forfeiture, which are stated in the slide (i.e., that the person held the relevant authorisation when the offence was committed, the offence relates to the taking of Aquatic Resource for

which they did not hold catch entitlement for and the quantity of the resource for which the person did not hold entitlement can be ascertained by the court).

The slides also discuss the actions to be undertaken by the CEO prior to a forfeiture resource share is allocated including, removing the notation of any security interest, cancelling the nomination of the resource share as a surety and removing details of any convictions in respect of the share.

### **Part 5 – Aquaculture (slide 29)**

This slide briefly discusses aquaculture, noting the information provided from the Parliament’s Explanatory Memorandum that ARMA’s Part 5 – Aquaculture is consistent with Part 8 of the FRMA – Aquaculture. On repeal of the *Pearling Act 1990*, pearl culture activities will be regulated under this Part of the Act. Wildstock pearl fishing will be managed under an Aquatic Resource Management Strategy (ARMS).

### **Part 6 Aquatic Biosecurity (Slide 30 & 31)**

Part 6 facilitates the control and management of identified aquatic diseases and declared organisms (pests) in specific categories further defined in the regulations for parts of the state or the entire state. It requires the preparation of aquatic biosecurity management plan in specific circumstances, compliance with the plan and penalties for non-compliance. It is for the regulation of declared organisms, their import, export, reporting, dealing, presence on a fishing vessel, duty to control and penalties. This relies on the willingness of government to take quick action.

It also provides head powers for the management of pollution in the aquatic environment with a focus on activities that may cause harm including refuse, environmental damage from pollutants or waste.

Part 6 provides the provision of specific emergency powers for the CEO of DPIRD to take action on a biological threat and to apply resources to limit or remove a declared organism and to recover the cost of doing so from an offending party.

Vessel operators will need to ensure that they do not have any declared organism on their vessel(s).

Note the Western Australia’s *Biosecurity and Agriculture Management Act 2007 (BAM Act)* is being reviewed for the first time. How the regulations under ARMA and ultimately interacts with the BAM Act is yet to be clarified. This is an important area of development by DPIRD and require scrutiny by industry once the Draft Regulations for ARMA become available, expected later in 2022 or early 2023.

### **Part 13 -Administration (Slide 32 & 33)**

Part 13 specifies the delegations and how they can be assigned by the Minister to another person and those which cannot be so assigned – the onus is on the Department to provide a list. It also specifies similarly the delegations that can be assigned by the CEO, and the activities the Minister must undertake and cannot delegate. Delegation is key, especially due



to the formation of the 'super-department' DPIRD and gaining understanding as to who holds delegated responsibilities for individual decisions is vital for industry to efficiently move forward.

Part 13 provides for the creation of an AR Ministerial body, its powers as a body corporate, procedures etc. that can perform any of the functions assigned by the Act where the Minister is assisted through the creation of such a body. Specific steps are to be taken to formally make decisions of this type. This is a significant change from the FRMA and provides potentially the means to create an organisation to undertake a range of functions having the support of the Minister and Government at some future time or enter into formal co-management arrangements for management of an aquatic resource.

The Minister can enter into agreement with a recognized body to undertake a range of functions including data collection and analysis, advising on and preparing aquatic resource use plans (ARUPs), managing specific aspects of a plan, representing interests of a sector, conducting trading of rights and any other prescribed function.

It also prescribes the ability of the Minister and CEO to establish advisory committees for specific needs.

#### **Part 18 – Transitional Provisions (Slide 34)**

Part 18 allows for the retention of fisheries management plans until Part 3 of ARMA applies. It retains all leases, authorizations, licenses, permits, entitlements, exemptions and ensures their continuation until transition.

Interim management plans transition to management plans.

General continuation of various applications, security arrangements, maintenance of the registry, offences, confiscations, the accounts (although renamed), certain Pearling Act provisions, etc. are assured.

The list below (provided by the courtesy of DPIRD) provides more specific detail on the transitional arrangement facilitated by the ARMA and the ARMA regulations. Subsidiary notice legislation established under the FRMA can only transition through the regulations provided the head powers are also created within the ARMA. This is expected to apply for Ministerial approved Administrative guidelines.

s.270 provides for regulations to transition any other matter not already picked up in Part 18.

A summary of the key matters transitioned under Part 18 of ARMA are as follows;

- s.272 – FRMA s.7 Exemptions
- s.273– FRMA s.54 Management Plans
- s.274 – FRMA authorisations (managed fishing licences and permits, aquaculture licences and leases etc.)
- s.275 – Matters relating to authorisations, including
  - FRMA s.224 Records of convictions i.e., black marks
  - Security interest notations
  - Applications for transfer of entitlement etc.

- s.276 – Ministerial body corporate
- s.277 – Arrangements with the commonwealth
- s.278 – Continuation of accounts (R&D and RFA etc.)
- s.279 – Register
- s.280 – Fish Habitat Protection Areas as Aquatic Resource Habitat Protection Areas
- s.281 – Seized and Forfeited things
- s.282 – FRMA s.225 Court Orders
- s.283 – PA Part 7 Arrangements with the Commonwealth and other states or Territories
- s.285 – PA licences and leases
- s.287 - PA Records of convictions i.e., black marks
- s.288 – PA Seized and Forfeited things

A summary of the key matters that are being transitioned by regulation under s.270 are as follows;

- FRMR regulation licences (FBLs, CBLs, CFLs, FRL (as FPLs), FTOLs, RFTOLs and recreational fishing licences.
- FRMA s.43 Prohibition on Fishing Orders as ARMA s.125 Orders
- Aquaculture Development Zones
- Fisheries Officers (as compliance officers)
- Authorised Persons
- Administrative Guidelines
- Approved ALCs and approved directions
- PA Pearl Divers Licences
- PA Pearling Inspectors (as compliance officers)
- PA Policy statements

### **Frequently Asked Questions (Slide 35)**

Title slide, self-explanatory.

### **When will ARMA be implemented? (Slide 36)**

Full commencement was scheduled for 1 January 2019, however the implementation of ARMA has been deferred. New date for commencement expected to be advised in early 2023.

### **Why was ARMA deferred? (Slide 37)**

- Department was prepared for implementation of ARMA for 2019.
- During preparation of the Pearling ARMS, an issue was identified with the structure of ARMA.
- The issue called into question the ability to implement fishing zones and associated fishing entitlements. The amendments providing increased flexibility to management of zones as well as management for different objectives within a commercial fishery within an ARUP linked to setting of a TAC in the respective ARMS.

- The Minister decided to defer ARMA implementation until the necessary ARMA amendments were made. (This has not included further considerations arising from recent Western Rock Lobster/Government discussions and contentions on access rights which will need to be addressed in the future). The amendments to ARMA passed in August 2021 and this will likely defer future amendments to ARMA until 2028 or later, the earliest date set by parliament following full proclamation of current legislation.

### **What will happen to existing subsidiary legislation? (Slide 38)**

All existing subsidiary legislation in force will automatically transition under ARMA including; Management Plans, FRMA s.43 Orders (as s.125 Orders under ARMA), Exemptions, s.115 FHPA Orders and CEO determinations etc.

A new s.125 Order will be required to recreate all of the existing protected species' framework (e.g., size limits, protection for breeding females etc.) – these are currently in the FRMR.

### **What new regulations can be expected under ARMA? (Slide 39)**

New *Aquatic Resource Management Regulations* are being developed to replace the *Fish Resources Management Regulations 1994* on implementation of ARMA. The new ARMA regulations will transition most of the FRMR on a like-for-like basis, and also includes new regulations for the management of pearling aquaculture activities and aquatic resource biosecurity.

It is noted that there will inevitably be minor errors within the new Regulations due to their complexity. These will be fixed once identified by future regulation amendments.

### **Will commercial fishing licences still exist? (Slide 40)**

Commercial Fishing Licenses (CFLs) will ultimately be replaced by a Fishing Master's License (FML) under the new regulations.

It is intended that ultimately only one person who is actively in charge of a commercial fishing operation will require an FML (usually the master of the boat). The onus will be on the FML holder to ensure that all activity is compliant on board the vessel. Some future operations may choose to have two FML holders on board in the event of an emergency or to meet the needs of an operating business, though only one licence holder will be able to operate as the Master at any given time.

Existing CFL holders will be advised of the transition process ahead of implementation of ARMA.

### **Does ARMA provide more resource access security? (Slide 41)**

Throughout 2019/21 WRL and WAFIC have continued to prosecute the case for increased resource security for fishing licences in Western Australia. This has included substantial submissions to the Legislative Council Public Administration Committee Inquiry into Fishing Licences as Property Rights and Government. Under an access rights-based management

approach, resource security is critically linked to having certainty around resource allocation and re-allocation principles and well-defined pathways for compensation. Industry leaders will continue to work with Government and DPIRD in the development of policy and legislation on these issues.

It is recognized that these issues are not new and existed throughout the evolution of fisheries legislation but have come under more recent focus.

Other risks around extending liability for offences under ARMA ultimately to the owner of authorisations or master of a fishing vessel, as before under the FRMA, can be mitigated. Further information can be found [here](#) as well as on co-management, increased opportunities and other industry risks under ARMA. DPIRD are also currently progressing with stakeholders as relevant, further policy development on issues of harvest strategy, resource allocation and compensation.

### **What are the benefits for a resource being made a 'Declared Aquatic Resource' under Part 3 of ARMA (Slide 42)?**

Bringing a fishery within the scope of Part 3 of ARMA improves industry certainty as spelled out within slide 42, increased certainty of TACC settings, all management rules being singularly located and better protection of resource shares.

### **What opportunities are provided by ARMA (Slide 43)**

Early setting of priorities for the declaration of aquatic resources and their management under Part 3 of ARMA is a must for industry investment certainty. This needs to progress with appropriate defined policy and discretionary decision-making responsibilities for the registrar and staff on matters of licensing, use of surety arrangements and all matter of administrative decision making that falls within the scope of the State Administrative Tribunal. To do so would increase certainty and administrative efficiency.

There is also the substantial opportunity to broaden policy development and administrative arrangements for co-management and perhaps transfer some functions to industry or outside bodies.

### **What improvements could be made to ARMA? (Slide 44)**

The challenge for the immediate future is industry leaders scoping the legislated and policy developments necessary to provide the fishing industry the resource security demanded with Government. Then, in the longer term, enabling aquatic resource access and use changes demanded by the community and governments. How best to implement such arrangements, minimizing administrative burden and conflict, facilitated by compensatory and market-based adjustment mechanisms where practical requires resolution. Slide 44 specifies the direction future policy review needs to embrace.

### **Addressing permissive licences under FRMA (Slide 45)**

Permissive conditions are currently without power under the FRMA and this will remain the case under ARMA. While from a policy perspective, permissive conditions will continue to be

recognised by the Department, in the spirit of ARMA's aim to strengthen fishing access rights, the Department and industry should work towards replacing permissive conditions with management arrangements with a legal basis – such as Orders or Regulation Licences. *(Herring Trap License Holders must consider what action they must undertake as they are not covered by transitional provisions as access is limited by licence permissive conditions. Other fisheries managed by permissive conditions are similarly affected).*

As such, access to a fishery/activity through a permissive condition represents a weak access right.

It's the responsibility of relevant fisheries managers/affected fishers to discuss future access under FRMA/ARMA.

Future arrangements under ARMA which provide a stronger access right include; regulation licenses and resource shares under an ARMS/ARUP.

### **How to internet access ARMA legislation and other legislation (Slide 46 & 47)**

Follow the links as set out in the two slides (provided below for ease of access). Certainly, all information on legislation can be sourced through DPIRD's website by following the Fisheries and Legislation headers.

Click [here](#) for the ARMA Act (only in force sections)

Click [here](#) for the full ARMA bill (including sections not yet in force)

Click [here](#) the Fish Resources Management Act 1994

Click [here](#) for Subsidiary Legislation