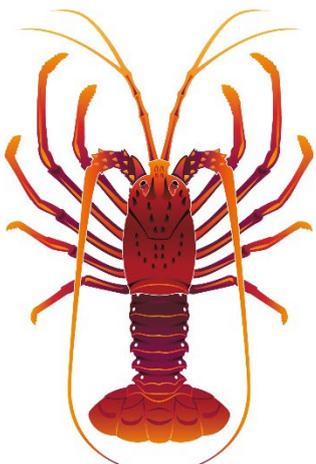


**Proposed amendments to the  
Fish Resources Management Act 1994 (WA)  
and other related policy reform**

**December 2025**



Western  
**ROCK  
LOBSTER**

World leading sustainable fishery



## Contents

<b>FOREWORD</b> .....	<b>I</b>
<b>A. BACKGROUND</b> .....	<b>1</b>
<b>B. FRMA AMENDMENTS TO GIVE EFFECT TO PRINCIPLE 3 (STAGE 1 ACTIONS)</b> .....	<b>2</b>
1. INTERPRETATION OF PRINCIPLE 3.....	2
2. PROPOSED STAGE 1 AMENDMENTS TO SUPPORT ELEMENTS OF PRINCIPLE 3 .....	4
2.1. <i>Registerable interest: FRMA Part 12 (ss 124-134) Register</i> .....	4
2.1.1. Section 124 - Registrar .....	5
2.1.2. Section 125 Register of Authorisations .....	6
2.1.3. Section 126 Information to be included in the Register .....	6
2.1.4. Section 132 evidentiary provisions .....	7
2.2. <i>Enduring and non-diluting rights</i> .....	8
2.2.1. Proposed Stage 1 amendments .....	8
2.2.2. Section 66 Authorisations, Grant of and Part 13 amendments: .....	9
2.3. <i>Barriers to perpetuity</i> .....	10
2.3.1. Sections 67-68 proposed amendment .....	10
2.4. <i>Exemptions from the Act</i> .....	11
2.4.1. Proposed amendments to Section 7 – Exemptions from Act: and Section 54 Determination etc. of management plan .....	12
2.5. <i>Capable of assignment</i> .....	13
2.5.1. Proposed amendments to the FRMA to improve assignability .....	13
2.5.2. Proposed amendment to Section 135 of the FRMA.....	14
2.5.3. Sale of fish by non-commercial sectors.....	14
2.6. <i>Protected at law</i> .....	14
2.6.1. Defined in legislation .....	14
2.6.2. Commonwealth Statutory Fishing Rights provisions as precedence of protection at law .....	15
2.6.3. Application of the Commonwealth fishing rights precedent to give effect to Principle 3 .....	17
<b>C. OTHER PRINCIPLES REQUIRING FRMA AMENDMENT DURING STAGE 1</b> .....	<b>19</b>
1. PRINCIPLE 2 .....	19
1.1. <i>Interpretation of Principle 2</i> .....	19
1.2. <i>Proposed amendment to support Principle 2</i> .....	19
1.2.1. Ecologically sustainable development (ESD) .....	19
1.2.2. Marine Parks and Licensed Fishing .....	20
1.2.3. Proposed amendment to the FRMA to address marine park exclusions .....	21
2. PRINCIPLE 5 .....	21
2.1. <i>Interpretation of Principle 5</i> .....	21
2.2. <i>Proposed amendment to support Principle 5</i> .....	22
<b>D. PRIORITY PRINCIPLES THAT CAN BE ADDRESSED THROUGH GAZETTED POLICY INSTRUMENT AND SUBSIDIARY LEGISLATION AMENDMENTS DURING STAGE 1</b> .....	<b>23</b>
1. PRINCIPLE 1 .....	23
1.1. <i>Interpretation of Principle 1</i> .....	23
1.2. <i>Proposed amendment to support Principle 1</i> .....	24
2. PRINCIPLE 6 .....	24
2.1. <i>Amendment recommended for Stage 1</i> .....	24

<b>E. PRINCIPLES THAT FORM PART OF STAGE 2 CONSIDERATIONS .....</b>	<b>25</b>
1. PRINCIPLE 4 .....	25
1.1. <i>Interpretation of Principle 4</i> .....	25
1.2. <i>Proposed amendment to support Principle 4</i> .....	26
1.2.1. Management Plan Objectives and State Fishing Policy .....	26
2. PRINCIPLE 6 .....	27
2.1. <i>Interpretation of Principle 6</i> .....	27
2.2. <i>Proposed amendment to align responsibilities for management</i> .....	27
3. PRINCIPLE 9 .....	27
4. PRINCIPLE 10 .....	28
5. PRINCIPLE 12 .....	28
5.1. <i>Meaning of Principle 12</i> .....	28
5.2. <i>Proposed Amendments</i> .....	29
6. PRINCIPLE 13 .....	29
6.1. <i>Interpretation of Principle 13</i> .....	29
6.2. <i>Proposed Amendments</i> .....	30
7. PRINCIPLE 14 .....	31
8. PRINCIPLE 15 .....	31
<b>F. PRINCIPLES THAT CAN BE ADEQUATELY ADDRESSED THROUGH OTHER POLICY INSTRUMENTS DURING STAGE 2 .....</b>	<b>32</b>
1. PRINCIPLE 11 .....	32
2. PRINCIPLE 7 .....	32
3. PRINCIPLE 8. ....	32
3.1. <i>Interpretation of Principle 8</i> .....	32
<b>APPENDICES .....</b>	<b>34</b>
1. APPENDIX 1 - FRMA STRATEGIC ADVISORY GROUP (FSAG) TERMS OF REFERENCE.....	34
2. APPENDIX 2 - PROPOSED AMENDMENT TO DEFINITIONS OF RESOURCE ACCESS RIGHTS .....	38

## Foreword

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Accounting for approximately 45 percent of Gross State Product (GSP), 8 percent of total State employment and one-third of Western Australian Government revenues, the prosperity of Western Australia has never been more dependent on its world-class natural resource-based industries.

While the Western Australian commercial fishing industry is a relatively small sector in this regard, it performs a key function in regional employment and community access to fresh seafood and provides several cross sectoral benefits such as is the case for local manufacturing, tourism and hospitality.

Within the commercial fishing sector, the West Coast Rock Lobster Managed Fishery accounts for 70 percent of Western Australian seafood Gross Value of Product and employment, is Australia's largest single-species wild capture fishery by value and was the first fishery in the world to receive Marine Stewardship Council (MSC) certification, a status that it has maintained for over a quarter of a century. It is no exaggeration to suggest that the demise of the western rock lobster industry would result in Western Australia's commercial fishing industry going from the second largest seafood sector in Australia to an almost irrelevant collection of cottage sectors.

Like all natural resource-based industries, the viability and success of the western rock lobster sector is fundamentally underpinned by the sustainability of the resource, license from the community to sustainably harvest a share of that resource and a certain, predictable and transparent regulatory framework.

As evidenced by a series of detrimental actions taken by successive Western Australian Governments over the past two decades and the decadal effort and significant resource that was invested by governments and industry in the development and implementation of the now defunct *Aquatic Resources Management Act 2016* (WA), it is this last fundamental pillar that continues to expose industry to unnecessary risk. This risk can be avoided and sustainability of the resource enhanced through a competent regulatory framework.

For Western Rock Lobster the central element that underpins a competent regulatory framework is that which ensures the integrity of the Individual Transferrable Quota (ITQ) system of fishing entitlements as a resource access instrument, commercial asset and mechanism for managing resource sustainability.

It is noted that the WA Labor prior to the last election committed, on re-election, to a process through amendments to the *Fisheries Resource Management Act* to achieve these objectives.<sup>1</sup> The present process to reform the *Fisheries Resource Management Act 1994*

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<sup>1</sup> "As part of this process, WA Labor is committed to the principles that individual transferrable quota and other rights-based commercial fishing and aquaculture resource and access entitlements should be secured by registration, enduring, cannot be diluted, are assignable, and protected at law." Hon Roger Cook MLA Premier and WA Labor leader, Letter, 6 March 2025 to Matt Taylor, CEO Western Rock Lobster Council and Melissa Haslam CEO WAFIC

(WA) and associated fisheries policy must achieve this outcome to the maximum extent possible.

The recommendations set out herein have been designed by representatives of the western rock lobster industry, some of Australia's leading fisheries policy experts and have been formally endorsed by the board of the Western Rock Lobster Council. If implemented, they will restore Western Australia's once proudly held reputation as a world-class fisheries regulator and guarantee a strong commercial fishing industry for generations to come.

## A. Background

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This submission to the Western Australian Government Department of Primary Industries and Regional Development ('DPIRD') is made by the Western Rock Lobster Council Inc. ('WRL'), the peak industry body for the West Coast Rock Lobster Managed Fishery (WCRLMF).

The WCLMF is the largest single species fishery by value in Australia and presently accounts for approximately 70 percent of Western Australian fisheries and aquaculture GVP and employment,<sup>2</sup> supporting livelihoods and regional economies while providing renewable and sustainable seafood to local and international markets. Approximately another 40 fisheries provide an ongoing source of fresh seafood to Western Australians, exports of seafood, and are an important contributor to the economic and social fabric of many Western Australian coastal communities.

This submission is made in accordance with DPIRD's formal two-stage process for designing and implementing amendments to the *Fish Resources Management Act 1994* (WA) ('FRMA') and aims to secure legal protections that ensure stability and predictability for the entitlements-based framework on which the commercial fisheries critically depend, ecological sustainability of the fishery resource and strengthened transparency – outcomes that will ensure that benefits flow to all Western Australians.

The amendments proposed herein have been developed by the WRL executive on the advice of its FRMA Strategic Advisory Group (see Appendix 1 for Terms of Reference and composition) and have been endorsed by formal resolution of the WRL Board.

Detailed in this submission, the recommendations go to:

- (a) FRMA amendments that are deemed necessary to ensure that the priority principles agreed in the Joint Industry Principles Framework are given the statutory effect they require for efficacy;
- (b) amendments to subsidiary legislation that may be required to give effect to priority principles in the Joint Industry Principles Framework to ensure efficacy;
- (c) definitional amendments in the FRMA under Section 4, proposed in the interests of continuous improvement;
- (d) Joint Industry Principles that can be given adequate effect through gazetted policy instruments in accordance with administrative law; and
- (e) Joint Industry Principles that can be given adequate effect through policy instruments more generally.

This submission is structured to discuss recommendations for principles under DPIRD's formal two-stage process in the order of priority.

WRL's immediate priority aligns with the Government's commitment to give statutory effect to Principle 3. WRL are well recognised as a sustainably managed fishery but continue to operate with uncertainty regarding resource access security. Rights-based fisheries deliver

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<sup>2</sup> Acil Allen (2025), *Economic Contribution of the Western Rock Lobster Industry in 2023-24*

broad public outcomes including affordable, sustainable access to WA seafood; stable regional jobs, services, and infrastructure; new private capital creation; transparent, rules-based tools for ecological, social and economic management; and reduced political risk associated with *ad hoc* and unpredictable decisions effecting resource access. Amendment of the FRMA to secure resource access rights will ensure these benefits continue.

WRL also submits that given recently published data regarding the status of the State's demersal fish stocks, the Western Australian Government prioritise mandatory catch reporting for all fishers where the sustainability of a resource is demonstrated to be at risk (Principle 5) and that this can be given effect via policy instruments rather than statutory reform.

## **B. FRMA amendments to give effect to Principle 3 (Stage 1 Actions)**

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**Principle 3: ITQ and other rights-based commercial fishing and aquaculture resource and access entitlements are secured by registration, enduring, cannot be diluted, are assignable and protected at law.**

### **1. Interpretation of Principle 3**

Principle 3 applies exclusively to the commercial fishing and aquaculture sectors. By ensuring commercial fishing rights are enduring, non-dilutable, transferable, and transparently registered, Principle 3 supports an efficient, competitive, and resilient fisheries sector that delivers long-term economic, social, and food-security outcomes for Western Australia.

Amendments which sustain Principle 3 provide certainty and security to commercial fishers, their financiers and investors (including fishers themselves and third-party investors), with respect to the fundamental asset on which commercial fishing and aquaculture industry is dependent - a specific quantified entitlement to a portion of the renewable and sustainable fishery resource as determined from time-to-time, and a license to fish that entitlement. In the case of aquaculture, this fundamental asset is the aquaculture lease and license.

This certainty and security is necessary to:

- mobilise financial resources that enable industry to invest in the significant capital and innovation that is required to remain competitive in the export markets that accrue revenue that cannot be generated by small local markets, but which support sectoral scale that enables supply of affordable product to local markets;
- continue to train and employ a skilled workforce, particularly in regional areas of Western Australia where employment options are limited;
- actively invest and participate in resource stewardship and supporting research; and

- continue to invest in Western Australian coastal communities.

Rights-based fishing, creates a positive environment that encourages local investment, drives industry efficiency and supports sustainable industry growth and delivery of world class stewardship of the marine environment. The benefits accrue to the natural ecosystem, industry, the community and governments alike.

Principle 3 is distinct from, and does not diminish or affect, the right of community members to access the common pool resource for recreational pursuits, or the right of traditional owners to access the resource for the conduct of non-commercial customary practice. Clarifying the property-like characteristics of commercial fishing rights underpins trust and resilience for families and businesses who rely on healthy fisheries. This recognition sits alongside recreational and customary access, ensuring each sector can thrive within a shared sustainability framework.

To underpin a sustainable commercial fishing industry in Western Australia, it is critical that resource access and entitlement represent certain key characteristics that are ‘property-like’. These are:

- (a) Registration: All dealings in licences, quotas, and entitlements must be recorded in a modern, publicly accessible register. A modernised register will deliver significant benefits across all stakeholders. For industry, it provides transparency and certainty, enabling participants to trade entitlements with confidence and supporting financiers in securing collateral with reduced risk. For government, it streamlines regulatory administration and lowers transaction costs through efficient, real-time processes. For the broader community, these improvements strengthen trust in fisheries governance, ensuring that resource access and management are conducted with integrity, transparency and accountability, securing a sustainable fishing industry into the future. Amendments to facilitate this element of Principle 3 are at section 2.1 of this submission.
- (b) Enduring: Rights must remain stable over time. Arbitrary cancellation or dilution through new allocations or exemptions undermines investment certainty and fairness. Industry participants, financiers and investors make significant capital investments, taking on risk associated with ecological and environmental sources of fishing uncertainty. They do this in the understanding that their registered fishing entitlement and license provides a clear pathway to fish a specific portion of the sustainable resource, as determined by the regulator from time-to-time. This access certainty is a vital downside commercial risk mitigation measure. Therefore, the ability for sudden, arbitrary and unilateral decisions to cancel or reduce that proportional share, an action which is the same as appropriating a portion of the participant’s historical capital investment or reducing the value of the collateral taken by the financier, must be significantly constrained, such that this right to the pre-determined share of the sustainable resource is enduring. By definition, time limited authorisations are not enduring

and WRL specifically reject the application of time limits to fishing authorisations. To be clear, this does not in any way undermine the State's ability to manage the sustainability of the fishery resources. Amendments to facilitate this element of Principle 3 are at section 2.2 of this submission.

- (c) **Not dilutable:** Introducing new quotas or entitlements that dilute a participant's existing proportional share of the resource undermines equity and stability for everyone who depends on the fishery, including participants with historical capital investment, financiers of that investment and new entrants. To protect community confidence and ensure long-term sustainability, the right to fish a defined portion of the fishery should be guaranteed in legislation and remain secure. Consistent allocations strengthen trust in fisheries governance, support transparent decision-making, and help maintain a management system that benefits all stakeholders. Amendments to facilitate this element of Principle 3 are discussed at sections 2.3 and 2.4 of this submission.
- (d) **Assignable:** Entitlements should be independently transferable and recorded at the unit level to improve market liquidity and financing options. Assignability positively contributes to resource market efficiency. Participants need to be able to efficiently enter or exit the industry by buying or selling quota or entitlements; participants need to be able to adjust their seasonal exposure by trading or leasing quota or entitlements; and financiers need to be able to appropriate quota or entitlements that have been provided as collateral in the event of default on debt. Amendments to facilitate this element of Principle 3 are at section 2.5 of this submission.
- (e) **Protected at Law:** The FRMA should define authorisations and entitlements as 'fishing rights', clearly recognised in legislation. Finally, when making capital investment decisions or providing finance, industry participants, financiers and investors need absolute certainty that quota and entitlements have these characteristics. Therefore, they must be expressly and clearly protected at law. Amendments to facilitate this element of Principle 3 are at section 2.6 of this submission.

## **2. Proposed Stage 1 amendments to support elements of Principle 3**

### **2.1. Registerable interest: FRMA Part 12 (ss 124-134) Register**

Element 1 of Principle 3 requires security through registration. This necessitates legislative provisions mandating the registration of all dealings in fishing rights, validated by a Registrar, to ensure full traceability and transparency. A publicly accessible register that accurately records transfers and interests in licences, quotas, and rights-based entitlements is essential to promote responsible industry conduct and reduce the risk of illegal or unreported fishing activity, thereby supporting ecological sustainability and compliance with total allowable catch limits.

Implementing these reforms will advance both sectoral priorities and management objectives, creating a robust foundation for sustainable growth. A modernised register will enable industry participants to trade with confidence, provide financiers with certainty for collateral, and significantly reduce transaction costs across the sector. Over time, these improvements will enhance market efficiency, strengthen investor confidence, and foster industry innovation and competitiveness.

Updating the current Register provisions under Part 12 of the FRMA is therefore critical to fully realise Principle 3 and deliver enduring benefits for all stakeholders. Existing online register models from jurisdictions such as the Commonwealth, South Australia, New Zealand, Iceland, and Norway offer practical examples for adaptation.

#### 2.1.1. Section 124 - Registrar

The Registrar, while engaged under the relevant Public Sector legislation, performs a core statutory function on behalf of the government: protection and management of the Register in the public interest and safeguard the integrity of the Register as a trusted source of fishing authorisation and entitlement information. For accountability, the Registrar should report directly to the Minister. Best practice in this regard is the South Australian model for which the Registrar General is also the Fishing Registrar.

Amend Section 124 of the FRMA to formalise the Minister's power to appoint the Registrar to ensure the Register is:

- (a) Managed in accordance with legislative requirements;
- (b) Operated independently from the day-to-day regulation of the fishing industry;
- (c) Maintained with transparency and integrity;
- (d) Capable of issuing electronic certificates as evidence of transactions: and
- (e) Processes are in place to responsibly address assessment of complex registration matters.

These proposed amendments advance Principle 3 by strengthening governance and accountability, establishing a clear line of accountability from the Registrar to the Minister, and ultimately to the public and government, reinforcing the Register's role as a reliable and authoritative source of information. Further, to maintain transparency and accountability in administering the Register, inclusion of requirements that the person/s responsible for maintaining and amending the Register must meet fit and proper person standards is appropriate.

### 2.1.2. Section 125 Register of Authorisations

While Section 125(2) of the FRMA permits the Register to be maintained in electronic format, there remain significant opportunities to improve online accessibility, real-time transaction capabilities, the level of detail held, and the issuance of electronic certificates.

DPIRD, the Registrar and industry have shown remarkable resilience and commitment in managing a legacy system and addressing its inherent challenges. Working with a system that is substantially less automated and flexible than is necessary in the current operating environment, their efforts have ensured the system remains operational, despite its resource-intensive and archaic nature.

The Register should provide real-time updates, automated notifications, and digital certificates to improve transparency and reduce transaction risk. Currently, industry stakeholders face challenges in obtaining timely and accurate notifications of Register entries. This lack of immediacy can undermine certainty of ownership for purchasers, financiers, and regulatory authorities during the transfer of entitlements and/or authorisations. The necessity to rely on manual processes to progress financial transactions, exposes parties to heightened lending risk whereby a period of lending is not secured as intended and may be affected in that period by unforeseen events against which lenders have no enforceable rights. This impacts both cost and availability of capital for the industry.

To address these issues, a modernised Register would support:

- (a) Real-time registration of dealings in fishing authorisations and entitlement;
- (b) Immediate visibility of encumbrances and ownership status; and
- (c) Automated notifications and digital certificates confirming transactions.

These proposed enhancements advance Principle 3 by way of reducing transaction risks associated with unverified rights and delays in clearing encumbrances prior to settlement, thereby improving the security and efficiency of resource transactions and financial dealings and ensuring public transparency with respect to commercial fishing entitlements.

### 2.1.3. Section 126 Information to be included in the Register

To provide certainty and transparency, in addition to the current provisions the Register should explicitly include:

- (a) The unique identifier assigned to each authorisation;
- (b) Details of ownership and current contact information of authorisation owner (note DPIRD's validation process for licensees must continue to apply to authorisations);

- (c) A description, including unique identifier, of entitlements associated with the authorisation;
- (d) A description of conditions of entitlement [refer to s66(3) for managed fishery entitlement characteristics]; and
- (e) A real-time record of all dealings, transfers, or changes relating to authorisation and entitlement, dependent upon complexity.

These proposed amendments advance Principle 3 by providing greater certainty and transparency in financial and legal transactions involving authorisations and entitlements, reliable contact information to regulators, timely and efficient information exchange and clear legislative recognition of existing access rights described in entitlement records and management plans as a verifiable record of rights of fishers facing constraints on access.

The proposed amendments to the register do not anticipate any change to the confidentiality of non-commercial fishing rights holders and anticipate that an existing registration system would be adapted for use by Western Australia, minimising project time and cost commitment.

#### 2.1.4. Section 132 evidentiary provisions

The Register plays a critical role in evidencing fishing rights and underpins the security of access to fisheries resources. To strengthen legal certainty, it is essential that holders of fishing authorisations can rely on the Register as *prima facie* evidence of their rights. It is proposed that Section 132 of the FRMA be amended to include a new provision — Section 132A: Evidentiary Provisions — to establish that:

- (a) A certificate issued by the Registrar, containing the registered particulars of an authorisation or entitlement, is *prima facie* evidence of those particulars; and
- (b) A signed copy of, or signed extract from, the Register is admissible in any proceedings as if it were the original document. The signatory would need to be the Registrar or their delegate.

Certificates issued by the Registrar should serve as *prima facie* evidence of entitlements, ensuring legal certainty and transaction security. It also provides *prima facie* evidence of access rights, directly linked to the utilisation and stewardship of a physical resource as defined in entitlement descriptors and the Management Plan. By providing a transparent and verifiable record of these rights, the framework supports informed marine resource planning and strengthens confidence in fisheries' rights to address spatial squeeze challenges.

## **2.2. Enduring and non-diluting rights.**

The FRMA grants the Minister broad authority to determine, amend, or revoke management plans, with only minimal procedural requirements. Revocation has significant consequences, as all rights attached to the plan cease under section 70. While sections 71 and 72 require consideration of prior fishing history and authorisations when issuing rights under a new plan, this obligation is not reflected in the section headings, creating ambiguity.

The Act does not require the Minister to consider advisory body advice or reference guiding principles and objectives when exercising these powers. This absence of statutory guidance undermines transparency, predictability and confidence in decision-making. Clear parameters for amending or cancelling management plans should be established in legislation and supported by policy that sets out procedures for reallocating fishing rights when management arrangements change. The policy should define circumstances under which new plans may be necessary and principles for reallocation.

To maintain stability, once allocations are established, they should remain consistent, noting that entitlement variations are managed through management plans and total allowable catch. The current provisions do not provide security of access during changes in management of a fishery. Persons who hold an authorisation must have confidence that they will be granted authorisation where a subsequent management plan or interim management plan is to apply to the fishery for which they already hold an authorisation. In addition to providing investors and financiers with adequate security, this also provides fishers with an enduring interest in the resource, encouraging re-investment, long-term stewardship and sustainable practices.

### **2.2.1. Proposed Stage 1 amendments**

- (a) Insert provisions requiring the Minister, when determining, amending, or revoking a management plan, to:
  - I. Consider the principles and objectives of the State Fishing Policy;
  - II. Consider and document advice from the advisory body before determining, amending, or revoking a management plan; and
  - III. Document reasons for the decision, including reference to sustainability and resource allocation principles.
- (b) Clarify section headings to accurately reflect obligations under section 72: “72. Grant of subsequent Authorisations”
- (c) Amend Section 72 to require the CEO take into account the fact that a person held an authorisation when determining whether or not to grant the person an

authorisation in a subsequent management plan or interim management plan for all or part of the fishery. Suggested provision: *72(1) the grant of an authorisation in a fishery is to be taken as conferring on that person a right to grant of an authorisation if a subsequent management plan is determined for the fishery.*

- (d) Delete Section 72 (2).
- (e) A new provision, Section 55A, be inserted under Division 2 of the FRMA. This provision should empower the Minister to:
  - i. Establish and fix the total number of authorisations available under a Management Plan; and
  - ii. Ensure that the total number of authorisations fixed under a new Management Plan is equivalent to the number in place in that fishery immediately prior to its determination;
- (f) Ensure that once allocations are established, they remain stable to support enduring rights and investment certainty;
- (g) Ensure consistency across related provisions (e.g., sections 60, 66) to maintain stability of allocations and prevent dilution of rights outside the management plan framework;
- (h) Develop a policy framework for transitioning between management arrangements, including clear procedures for reallocating rights and principles for initiating changes; and
- (i) Develop a policy to guide the Minister in the exercise of their power under section 54, clearly identifying benchmarks and circumstances for initiating revocation of management plans.

#### 2.2.2. Section 66 Authorisations, Grant of and Part 13 amendments:

Section 66 relates to the grant of authorisation on application to the CEO for managed fisheries. The terms of this provision must be amended to provide for:

- (a) explicit exclusion of the State or an agency of the State making successful application to the CEO for the grant or renewal of an authorisation; and
- (b) precluding the CEO from granting, renewing or transferring an authorisation to the State or agency of the State.

This is a critical aspect of securing certainty around fishing rights within fisheries since it provides that dilution of fishing rights cannot be made as a decision outside industry and the co-management framework. Section 66 works together with sections 55A and 60 to specifically prevent allocation of authorisations outside the management plan framework, for managed fisheries.

Consequential amendments to Part 13 of the FRMA may be required to address the same concerns in relation to non-managed fisheries.

These amendments support the implementation of Principle 3 by adding legislative weight to the prevention of allocation of authorisations and entitlement outside industry and the management plan framework which underpins sustainable management of both the fishery and resource.

### **2.3. Barriers to perpetuity**

The concept of enduring fishing rights cannot be fully realised under the current provisions of the FRMA, which:

- (a) Impose time limits on the duration of authorisations following grant or renewal (e.g. Sections 58(i) and 67);
- (b) Allow the Minister to reduce or vary authorisations or entitlements outside the Management Plan framework (s 54 and Part 13); or
- (c) Allow the transfer of authorisations to the State or State agencies.

To support enduring and secure rights, the following legislative amendments are proposed.

#### **2.3.1. Sections 67-68 proposed amendment**

- (a) Repeal Section 67 and amend Section 68 to establish that, subject to Section 143:
  - i. Authorisations will automatically renew unless licence fees are outstanding for a period of more than 60 days;
  - ii. Provide for flexibility to impose licence suspension while matters are resolved rather than automatically rescinding licences;
  - iii. If a renewal application is made by a person other than the State or a State agency, the CEO must renew the authorisation; and
  - iv. If the application is made by the State or a State agency, the CEO must not renew the authorisation.
- (b) Ensure provisions to remove black marks at an automatic time related milestone e.g. 6 years after the last one received.

These changes would reduce administrative and legal uncertainty for rights holders and would provide the community with assurances of transparency in government management of Western Australia's marine resources.

## 2.4. Exemptions from the Act

The use of exemptions to manage fisheries and fish resources over many years has resulted in a complex and administratively demanding management system which, unlike a clear rights-based system, does not provide long term security of access to marine resources or provide a stable base from which the State may consider marine resource planning.

Issues which are notable in relation to the use of exemptions include:

(a) Resource Reallocation and Inefficiencies

Exemptions should be limited to essential purposes and clearly defined in legislation to maintain fairness and integrity. To reduce inefficiencies and complexity in fishery management, exemptions ordinarily used to address operational matters should be managed through the management plan framework.

(b) Preserving Management Framework Integrity

Exemptions applied to individual authorisation holders introduce uncertainty and undermine the integrity of quota systems and management planning frameworks. To maintain transparency and fairness, exemptions should apply consistently across all relevant authorisation holders within a fishery and must not alter allowable catch limits or entitlements. This approach ensures operational consistency and strengthens stakeholder confidence in fisheries governance.

(c) Defined Purpose and Scope

The purposes for which exemptions may be granted must be clearly articulated in legislation. Exemptions should be limited to essential objectives such as environmental protection, public safety, public health, and research directly related to fisheries management, including biomass monitoring and assessment of anthropogenic and environmental impacts. Ambiguity in current provisions creates risk and should be eliminated through precise language or removal of ambiguous sub-provisions such as community education.

(d) Managing Research Exemptions

Research exemptions should have strict criteria and oversight, with preference for permit-based frameworks to ensure accountability.<sup>3</sup>

(e) Transitioning from Perpetual Exemptions

Fisheries dependent on exemptions should transition to permit-based and managed frameworks for long-term certainty and sustainability. This approach

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<sup>3</sup> *Fisheries Management (Miscellaneous Exploratory and Developmental Fishery) Regulations 2025 (SA)*

promotes stability, removes incentives for over-capacity, supports sustainable industry development, and aligns with principles of sustainable resource management.

2.4.1. Proposed amendments to Section 7 – Exemptions from Act: and Section 54 Determination etc. of management plan

- (a) Section 7(2) should define permissible exemption purposes: environmental protection, public safety, public health, fisheries research and development, and enforcement.
- (b) Delete broad term “community education” from Section 7(2)(f).
- (c) Fisheries should be reassessed for transition to permit fisheries, and then managed fisheries, in accordance with the existing framework in place to achieve this outcome.
- (d) Amend Section 54 to provide for operational matters currently managed by exemptions to be addressed through amendments to management plans.

An example of such provisions is in Part 5, s46 of the South Australian legislation<sup>4</sup> which allows minor amendments by Gazette notice for operational efficiency without undermining substantive management objectives:

*46—Procedure for making certain amendments to management plans*

- (1) *The Minister may, by notice in the Gazette, amend a management plan—*
  - (a) *to correct an error; or*
  - (b) *to make a change of form (not involving a change of substance) in the plan; or*
  - (c) *if the Governor is satisfied that the amendment would not substantially alter the plan; or*
  - (d) *if the plan or the regulations provide that a change of a specified kind may be made by amendment under this section — to make a change of that kind.*
- (2) *An amendment under this section takes effect on the day fixed in the Gazette notice of the amendment.*

If exemptions for commercial purposes are retained within the FRMA, they should:

- i. be for prescribed purposes only;
- ii. be granted only in relation to persons who are the holders of a managed or interim managed fishery authorisation (permit, licence) or a class of persons;

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<sup>4</sup> *Fisheries Management Act 2007 (SA)*, s46

- iii. apply equally to all holders of a managed or interim managed fishery authorisation or the relevant class of persons; and
- iv. not reduce or increase allowable catch as determined Minister and informed by the TAC process.

These amendments would retain functionality and flexibility to manage the fisheries while supporting Principle 3 by removing the uncertainty promoted by various complex and temporary arrangements under exemptions, some of which continue for lengthy periods without addressing the substantive issue, negatively affecting core resource access certainty for fishers and undermining management improvement frameworks.

## **2.5. Capable of assignment**

To enhance transparency, accountability, and market efficiency, the FRMA should be amended to modernise the Register (see Section 2.1) and explicitly enable the independent assignment of authorisations and entitlements. Current provisions restrict enduring entitlements to being assigned and recorded under a Managed Fishery Licence (MFL) with transfers between licenced fishers being recorded on the MFLs as usual (enduring entitlement) and current (enduring entitlements plus or minus the temporary transfers). However, this is not processed or visible in real time.

Permanent transfers and assignments are currently authorised under section 140, while temporary transfers occur under section 141, subject to management plan conditions. In practice, entitlements expressed as Units represent an enduring share of the fishery and may be transacted during the season to support operational efficiency. However, the inability to register entitlements independently of an MFL creates barriers to assignment, reduces market liquidity, and complicates financial arrangements.

### **2.5.1. Proposed amendments to the FRMA to improve assignability**

- (a) Amend section 4 to define entitlements as “Enduring Units” (see Appendix 2 for suggested definitions);
- (b) Amend section 60 to permit entitlements to be registered and assigned separately from licences;
- (c) Require entitlement holders to meet “fit and proper person” standards equivalent to those applied to authorisation holders;
- (d) Prohibit fishing of entitlement without a valid authorisation;
- (e) Enhance Part 12 of the FRMA to permit entitlements to be registered and assigned separately from licences and require mandatory registration of all entitlements and authorisations; and
- (f) Modernise the Register (see Section 2.1) to record both permanent and temporary transactions at the unit level with clear ownership and

identification of the enduring unit and the authorisation under which it is being fished, ensuring transparency and supporting consistent regulatory oversight.

#### 2.5.2. Proposed amendment to Section 135 of the FRMA

Section 135 currently requires CEO approval for entitlement transfers, including permanent transfers of entitlements linked to transfer of authorisations. The process should be streamlined so that routine transfers between fishers occur through the online register without CEO involvement, while only complex or interdependent transactions require CEO review and approval.

#### 2.5.3. Sale of fish by non-commercial sectors

Elevate prohibition of the sale of fish taken unlawfully to the primary legislation. Current prohibitions are fragmented across regulations (e.g., r.121(2), r.128O, r.64AA). While Section 90 safeguards aquaculture from unlicensed sales, equivalent provisions for fisheries are absent. A consolidated provision which addresses the illegality of any fishers selling fish taken without a current commercial fishing licence (authorisation), and forbids the sale of fish by non-commercial sectors, should be included in the legislation.

This amendment elevates existing intent into primary legislation, ensuring consistency and reinforcing sustainable fisheries management. Sale of bycatch by commercial fishers should remain governed by management plans and policies to maintain operational flexibility.

### **2.6. Protected at law**

#### 2.6.1. Defined in legislation

Recognition of commercial fishing rights is not secured in law without provision for establishing the legal nature of fishing rights (authorisations and entitlements) and the authority to create a system for their management.

To properly identify commercial fishing rights there must be a definition within the FRMA of authorisations and entitlements as separate fishing rights within state managed fisheries, capable of being identified independently of each other and entered on the register. Entitlements should also be further defined to clarify their meaning as a right to take a fixed proportion of the total allowable catch and to define them as “Enduring Units” (refer to discussion at section 2.5 and proposed amendments at 2.5.2(a) and (f) of this document).

- (a) Amend the FRMA to recognise the legal nature of commercial fishing rights by clearly identifying and defining commercial fishing authorisations and entitlements as fishing rights.
- (b) Require fishing rights to be registered.
- (c) Amend the FRMA to provide the Minister with explicit authority to create fishing rights on behalf of the State, but not for the State, if appropriate.
- (d) Forbid fishing of entitlement without a commercial fishing authorisation.

#### 2.6.2. Commonwealth Statutory Fishing Rights provisions as precedence of protection at law

A clearly defined system of fishing rights is contained in the *Fisheries Management Act 1991 (Cth)* ('FMA') which describes the nature of fishing rights in a Commonwealth managed fishery at section 21(1). This provision offers a plain-language model that is easily understood.

Adapting similar clarity in the FRMA helps everyone see what can be held, traded, or used, and under what conditions, while preserving sustainability as the guiding principle.

##### *Section 21 Nature of a statutory fishing right<sup>5</sup>*

- (1) *For the purposes of this Act, each of the following rights is a separate statutory fishing right:*
  - (a) *a right to take a particular quantity of fish, or to take a particular quantity of fish of a particular species or type, from, or from a particular area in, a managed fishery;*
  - (b) *a right to a particular proportion of the fishing capacity that is permitted, by or under a plan of management, for, or for a part of, a managed fishery;*
  - (c) *a right to engage in fishing in a managed fishery at a particular time or times, on a particular number of days, during a particular number of weeks or months, or in accordance with any combination of the above, during a particular period or periods;*
  - (d) *a right to use a boat in a managed fishery for purposes stated in a plan of management;*
  - (e) *a right to use particular fishing equipment in a managed fishery;*

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<sup>5</sup> *Fisheries Management Act 1991 (Cth)* ('FMA') which describes the nature of fishing rights in a Commonwealth managed fishery at section 21(1).

- (f) *a right to use, in a managed fishery, fishing equipment that is of a particular kind, of a particular size or of a particular quantity or is a combination of any of the above;*
- (g) *a right to use a particular type of boat in a managed fishery;*
- (h) *a right to use a boat of a particular size or having a particular engine power, or of a particular size and having a particular engine power, in a managed fishery; or*
- (i) *any other right in respect of fishing in a managed fishery.*

(1A) *A plan of management for a fishery may do any one or more of the following:*

- (a) *provide for a statutory fishing right of a kind mentioned in paragraph (1)(a) even though, in a particular period, the quantity of fish to which the fishing right relates is nil or negligible;*
- (b) *provide for a statutory fishing right of a kind mentioned in paragraph (1)(b) even though the proportion of fishing capacity to which the fishing right relates would result in a nil or negligible quantity of fish;*
- (c) *provide for a statutory fishing right of a kind mentioned in paragraph (1)(f) even though it may be impracticable to make or use fishing equipment of the size or quantity, or size and quantity, to which the fishing right relates; or*
- (d) *provide for a statutory fishing right of a kind mentioned in paragraph (1)(h) even though it may be impracticable to build or use a boat of the size or having the engine power, or of the size and having the engine power, to which the fishing right relates.*

(1B) *For the purposes of subsection (1C), the fishing rights in respect of a particular fishery that are referred to in any one of the following paragraphs together constitute a class of fishing rights:*

- (a) *2 or more identical fishing rights of a kind mentioned in paragraph (1)(a);*
- (b) *2 or more identical fishing rights of a kind mentioned in paragraph (1)(b);*
- (c) *2 or more identical fishing rights of a kind mentioned in paragraph (1)(c);*
- (d) *2 or more identical fishing rights of a kind mentioned in paragraph (1)(f);*  
*and*
- (e) *2 or more identical fishing rights of a kind mentioned in paragraph (1)(h).*

(1C) *If a person holds a class of fishing rights in respect of a managed fishery, the fishing rights in the class together confer fishing rights in respect of:*

- (a) *if the fishing rights in the class are fishing rights of a kind mentioned in paragraph (1)(a)—a quantity of fish, or of fish of the relevant species or type, equal to the sum of the quantities of fish, or of fish of that species*

*or type, in relation to, or in relation to the area in, the fishery, stated in the fishing rights in the class; or*

- (b) if the fishing rights in the class are fishing rights of a kind mentioned in paragraph (1)(b)—a proportion of fishing capacity equal to the sum of the proportions of the fishing capacity stated in the fishing rights in the class; or*
- (c) if the fishing rights in the class are fishing rights of a kind mentioned in paragraph (1)(c) and each fishing right relates to a particular number of days, weeks or months during a particular period or periods—a number of days, weeks or months equal to the sum of the numbers of days, weeks or months, as the case may be, during that period or those periods, stated in the fishing rights in the class; or*
- (d) if the fishing rights in the class are fishing rights of a kind mentioned in paragraph (1)(f)—fishing equipment the total size or quantity of which is not greater than the sum of the sizes or quantities, or the total size and total quantity of which are not greater than the sum of the sizes and the sum of the quantities, as the case may be, stated in the fishing rights in the class; or*
- (e) if the fishing rights in the class are fishing rights of a kind mentioned in paragraph (1)(h)—a boat of a size not greater than the sum of the sizes, having an engine power not greater than the sum of the engine powers, or of a size not greater than the sum of the sizes and having an engine power not greater than the sum of the engine powers, as the case may be, stated in the fishing rights in the class.*

*(2) A fishing right may authorise fishing:*

- (a) by or from an Australian boat; and*
- (b) if the relevant plan of management so provides—by or from a foreign boat.”*

### 2.6.3. Application of the Commonwealth fishing rights precedent to give effect to Principle 3

The majority of WA's commercial fisheries are managed under management plans, with operators holding managed fishery licences authorised under the FRMA. Section 21 of the FMA describes the basis of distribution of commercial fishing rights. The provisions are similar to those articulated in WA fishing legislation. Sections 58 and 60 of the FRMA provide for the distribution of commercial fishing rights in management plans, which are subsidiary legislation and less certain or secure than when captured in primary legislation. Embedding these provisions in

the FRMA safeguards these rights in legislation, providing statutory certainty and transparency to rights holders at the highest level.

To safeguard commercial fishing and aquaculture sector fishing rights in the FRMA, similar provisions to those used in the FMA may be applied to licences listed at section 4(a), (b) and (e) of the FRMA, which specifically refer to aquaculture, commercial fishing and managed fishing licences, respectively.

Adopting provisions similar to section 21 of the Commonwealth Fisheries Management Act (FMA) would provide Western Australia with a clear and consistent framework for defining commercial fishing authorisations and entitlements as statutory fishing rights. Embedding these definitions in the FRMA and requiring their registration would deliver transparency and certainty for all stakeholders. This approach offers significant benefits:

- (a) Clearly defined rights enable fishers, financiers, and regulators to understand, trade, and manage entitlements under predictable conditions;
- (b) Legal recognition of fishing rights supports secure transactions and investment, strengthening industry resilience and ensuring longevity in local seafood production; and
- (c) Mandatory adherence to Harvest Strategies and management plans, ensuring ecological sustainability and maximum economic yield.

These provisions complement the role of management plans in managing entitlements. Legal recognition of fishing rights underpins long-term stability and incentivises responsible stewardship of marine resources.

A suitable interim measure may be the inclusion of:

- (a) a definition at section 4 which states that, for the purposes of this Act, each commercial fishing authorisation or entitlement is a fishing right; and
- (b) provision at section 132 for compulsory registration of all commercial fishing rights.

These proposed amendments advance Principle 3 by embedding statutory protection for commercial fishing rights within primary legislation, elevating these rights beyond subsidiary instruments to ensure enduring legal authority. This approach will provide legislative certainty for rights holders and the communities that depend on stable fisheries, reinforcing confidence in the integrity of the management framework. At the same time, the framework must preserve regulatory flexibility to achieve sustainability objectives through management plans.

## C. Other principles requiring FRMA amendment during Stage 1

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### 1. Principle 2

**Principle 2: Ensuring ecological sustainability; and managing resources in accordance with the principles of Ecological Sustainable Development (ESD) and Ecosystem Based Fisheries Management (EBFM). Where the sustainability of aquatic resources is deemed to be at risk, an effective management response is required immediately.**

#### 1.1. Interpretation of Principle 2

Sections 3 and 3A of the EPBC Act 1999 establish Ecologically Sustainable Development (ESD) as the legal and policy foundation for fisheries management in Australia, aiming to balance long-term economic, social, and environmental sustainability which are core to industry goals.

Ecosystem-Based Fisheries Management (EBFM) operationalises ESD by addressing cumulative environmental impacts from all pressures on the sustainability of a fishery, including effects not only on fish stocks, but also the habitats, ecosystems and communities that support those fish stocks. Specific consideration of economic efficiency and industry profitability are elements of the EBFM which should be strengthened to better support Principle 8.

The ecosystem approach specifically provides for consideration of the cumulative impact of external pressures such as spatial squeeze. Articulating sustainable seafood objectives as a state priority through ESD should help prioritise the industry over other, non-fishing developments such as offshore energy when considering regional marine planning and sustainable industry development.

Industry's prioritisation of ecological sustainability underpins successful stewardship of fisheries and aquaculture and its successful application affirms industry capacity to advise government on marine resource challenges to secure industry and ecosystem sustainability.

The strength of ESD and EBFM should be leveraged to ensure sustainable fisheries have the opportunity to retain fishing in otherwise excluded zones such as marine parks.

#### 1.2. Proposed amendment to support Principle 2

##### 1.2.1. Ecologically sustainable development (ESD)

ESD should be defined within the legislation (s 4) to support the implementation of Principle 2. It also provides a basis for policy and decision making to support the framework upon which FRMA section 3(2)(f) may be implemented. An example of

wording used to define ESD in fishing legislation is in the South Australian legislation (Fisheries Management Act 2007 (SA), s7(5)) reproduced below. Note that the WA legislation has clear provisions for the precautionary principle at section 4A of the FRMA.

*s7(5) ecologically sustainable development comprises the use, conservation, development and enhancement of the aquatic resources of the State in a way, and at a rate, that will enable people and communities to provide for their economic, social and physical well-being while—*

- (a) sustaining the potential of aquatic resources of the State to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of the aquatic resources of the State; and*
- (c) avoiding, remedying or mitigating adverse effects of activities on the aquatic resources of the State,*

*(taking into account the principle that if there are threats of serious or irreversible damage to the aquatic resources of the State, lack of full scientific certainty should not be used as a reason for postponing measures to prevent such damage).*

### 1.2.2. Marine Parks and Licensed Fishing

Sections 110 and 136A of the FRMA currently prohibit the co-existence of licensed commercial fishing within certain marine reserves and parks. While these provisions aim to protect biodiversity, they may inadvertently limit opportunities for integrated marine resource planning and threaten resource access security for commercial fishers. Despite the 2024 Marmion Marine Park extension process reaching its conclusion, there remains no stated evidence or justification for removing the access of MSC certified western rock lobster fishers based on the Ministers' criteria of habitat and biodiversity. There must be evidence and justification by proponents proposing to change marine domain use that results in removal of access for commercial fishing rights.

The potential for synergistic solutions through co-location of commercial fishing and marine parks is a significant opportunity. Flexibility to find synergies between sustainable fisheries management, MSC certification standards and environmental management objectives would facilitate improvements in marine resource planning and the delivery of Joint Industry Principles 2, 3, 7, and 12.

### 1.2.3. Proposed amendment to the FRMA to address marine park exclusions

Review and amend Sections 110 and 136A to require evidence and justification by proponents proposing to change marine domain use that results in removal of access for commercial fishing rights and allow co-location of commercial fishing within marine parks where compatible with conservation objectives.

This approach would:

- (a) Improve strategic alignment between environmental and industry sectors to achieve State environmental goals;
- (b) Enhance planning for marine resource use;
- (c) Provide greater certainty of access for fisheries operating under sustainable management frameworks; and
- (d) Engage the commercial fishing industry resources to support environmental protection stewardship in protected areas.

## 2. Principle 5

**Principle 5. Where sustainability of an aquatic resource is at risk, accurate and timely reporting of catch in all sectors should be implemented to ensure trust, accountability and sustainability.**

### 2.1. Interpretation of Principle 5

Effective resource management for sustainability must be grounded in regular, rigorous scientific monitoring. This includes ongoing assessment of the resource itself, its surrounding environment, and all associated fishing activities. Transparency and accountability are foundational to this process, ensuring that decisions are credible, inclusive, and responsive to changing conditions.

While sustainability is influenced by multiple factors, anthropogenic impacts are the most significant and immediate and must be carefully managed. Accurate mandatory reporting of fish removal is necessary for responsible management of fish biomass. Establishing scientifically valid thresholds beyond which a resource is considered at risk, is a critical tool in sustainable fisheries management. These thresholds must be clearly defined and regularly reviewed for each species. Reliable data from all sectors is essential to accurately assess the impact of fishing on the biomass and detect potential changes. Risk management strategies are undermined when catch data is incomplete, infrequent, or collected using inconsistent and unreliable methods.

Commercial fishers are required to report catch data in detail, (western rock lobster report catch to 100 grams in real time) and to implement measures like Total Allowable

Commercial Catch (TACC) reductions when necessary. These responsibilities must be shared across all biomass users to ensure equitable stewardship and preclude compromise of risk management strategies. Continuous data collection is essential to understand resource dynamics and inform adaptive management strategies.

## **2.2. Proposed amendment to support Principle 5**

- (a) Amend the FRMA to require pre-landing accurate mandatory reporting where sustainability is at risk, for all fishers.
- (b) Ensure state policy includes actions to identify when a species is considered at risk, based on scientific reasoning and data.
- (c) Develop and implement a process and indicators for risk management of fisheries as part of a more strategic approach to resource management.
- (d) Ensure that an appropriately resourced monitoring and reporting system is part of co-management.
- (e) Issue a gazetted policy requiring pre-landing accurate mandatory catch reporting for all fishers when sustainability thresholds are triggered.
- (f) Include provisions compelling the Minister to activate mandatory reporting measures when scientific indicators identify a species as at risk.
- (g) Develop clear, scientifically based criteria and indicators for determining when a species is considered at risk.
- (h) Ensure these thresholds are regularly reviewed and updated based on best available science.
- (i) Establish and resource a comprehensive monitoring and reporting system as part of co-management arrangements for all fisheries.
- (j) Ensure systems are capable of real-time or near-real-time data collection to support adaptive management arrangements for all fisheries.

## **D. Priority Principles that can be addressed through gazetted policy instrument and subsidiary legislation amendments during Stage 1**

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### **1. Principle 1**

**Principle 1. The WA government recognises the broad value of the seafood industry and fishing to the community and economy.**

#### **1.1. Interpretation of Principle 1**

Viable natural resource-based industries require policy certainty, value recognition and secure access to the resource. Gazetted policy recognition of the value of the seafood industry to Western Australia is an essential driver of government policy and action to protect, develop and support the industry. Akin to the policy and legislative frameworks establishing recognised sectors such as mining and energy, seafood industry policy and legislation should be formulated in the context of recognition, not only of the current value but the future potential value to the community, economy and environment.

To realise optimum value from the resource (Joint Industry Principle 7), cumulative impacts such as spatial squeeze must be considered in assessing new offshore and coastal development proposals. Evaluating proposals in isolation undermines due diligence in marine resource planning and discounts the very real cumulative impacts suffered by commercial producers. Resource access security (Joint Industry Principle 3) provides standing for compensation if access is removed for reasons other than sustainability (Joint Industry Principle 13).

The actual and potential contribution to positive economic and social outcomes from the seafood industry are evident in the financial contribution to the State, industry impact on regional communities and world recognised leadership in providing environmentally sustainable and responsible management for the common use resource.

Stakeholders in the industry act as agents for this and future generations. They have a vested interest in protecting the marine environment for enjoyment of the community, species protection, and to provide a renewable, sustainable and healthy source of food.

Government policy to compel a Minister to put in mandatory catch reporting for sustainable purposes must be included in this State Fishing Policy along with clear direction as to when such reporting should occur and the relevant trigger to reporting when a species is considered at threat of unsustainability.

Defence against pressures to subsidise or facilitate competing industries require clear attribution of the seafood industry value and recognition of rights to the resource to

secure seafood production as a matter of priority. Processes to prioritise the seafood industry as a recognised core concern of the State, will give standing to industry members to further invest and develop opportunities. The potential for growth in sustainable production of seafood cannot be realised without recognition and support secured by legislation, particularly in the face of the potential alternative.

## **1.2. Proposed amendment to support Principle 1**

- (a) The State Fishing Policy should be released as a Ministerial Policy Guideline providing binding guidance in relation to WA fishing to Ministers, stakeholders and community.
- (b) Ensure objectives of the Policy are referenced in FRMA and Management Plan objectives, at a high level.
- (c) Develop funding and reporting processes which focus on achieving key priorities of the State Fishing Policy along with Management Plan priorities.
- (d) Ensure support for research funding to meet industry and regulator needs.

## **2. Principle 6**

**Principle 6. Management should improve flexibility to ensure adaptability and resilience within fisheries management frameworks**

### **2.1. Amendment recommended for Stage 1**

Principle 6 is addressed at section F of this submission. However, WRL recommend amendment to the *Fish Resources Management Regulations 1995* (FRMR), Regulation 4. Body prescribed (Act s. 4(1) peak industry body), to recognise the Western Rock Lobster Council and Aquaculture Council of Western Australia as commercial seafood peak bodies prescribed for the purposes of the definition of peak industry body in section 4(1) of the Act. In view of the existing roles and funding and reporting agreements made directly with the Minister, this amendment should proceed without delay.

## **E. Principles that form part of Stage 2 considerations**

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### **1. Principle 4**

**Principle 4: Management should be evidence and risk-based with clear prioritised objectives and transparency.**

#### **1.1. Interpretation of Principle 4**

The below four elements are critical as the industry navigates key management challenges and positions itself for sustainable growth. WRL remains strongly committed to supporting the four elements and working collaboratively to ensure successful implementation of Principle 4.

- (a) Evidence based: Management decisions should be grounded in scientific data, research, and monitoring, avoiding reliance on unproven assumptions, untested theories or political pressures. All government decisions regarding the management of the resource must be justified with evidence on this basis.
- (b) Transparent: Transparency requires decision makers be accountable and decisions made in accordance with clear and consistent processes and standards which offer appropriate review opportunities. In keeping with this approach in relation to operational management, decisions related to alternative uses of marine resources must also be assessed on the same basis and, because the precautionary principle can be misinterpreted, gaps in necessary research should be addressed as a priority so that evidence and risk-based decisions can be made on an informed basis. Transparency in government decision making is necessary to underpin security of access and responsible management.
- (c) Prioritised objectives: Prioritised objectives are those which will have the greatest impact and align with achieving the vision for the industry and within each fishery. They drive the allocation of resources to support risk responses and must be cognisant of the overarching value of the seafood industry. A sustainable commercial seafood industry requires prioritising against alternative marine resource uses to secure systemic change to assessment processes for evaluating and responding to threats and risks to the industry and the resource.
- (d) Risk-based: Management should assess and prioritise risks to the viability of the seafood industry, ecosystems, species, and communities by allocating resources to address the higher risks first. In this context, the successes of the industry in sustainable management of the marine environment and resource should be recognised as a legitimate basis from which to inform decision making. A rights-based system provides the opportunity to strengthen sustainable management of fisheries, utilising leading scientific and industry-based data to align harvest strategies with clear objectives including maximum economic yield

and economic efficiency. Supported by strong science and market knowledge, WRL are a global leader in this area of fisheries management having a mature and multi-layered approach to harvest strategies and the setting of total allowable commercial catch for each season.

## **1.2. Proposed amendment to support Principle 4**

### **1.2.1. Management Plan Objectives and State Fishing Policy**

Embedding resource access rights in the FRMA and the removal of capacity to make variation on these by exemption secures resource rights and enhances certainty for stakeholders. Section 56 can further strengthen governance by clearly linking fishery management objectives to the State Fishing Policy, also ensuring transparency and proactive responses by the State to emerging challenges to the fishing industry.

Amendments to the FRMA may include amending Section 56 (Contents of Management Plans) to require that objectives be explicitly referenced in management plans which require:

- (a) Evidence-based decision-making grounded in scientific data – supported by provisions requiring the Minister and CEO to document decisions affecting marine resource planning and use, including reference to scientific evidence, risk assessment, and alignment with State Fishing Policy.

Amendments which may reside in policy or ministerial guidelines should include:

- (a) Transparent processes with documented reasoning and review opportunities;
- (b) Prioritisation of objectives to maximise ecological, economic, and social outcomes;
- (c) Risk-based resource allocation to address highest threats first;
- (d) Include in the Management Plan, a requirement for periodic review of research gaps and precautionary measures, ensuring decisions remain informed and adaptive; and
- (e) Provide for publication of management objectives and risk assessments, reinforcing transparency and stakeholder confidence.

## **2. Principle 6**

### **Principle 6. Management should improve flexibility to ensure adaptability and resilience within fisheries management frameworks**

#### **2.1. Interpretation of Principle 6**

WRL and DPIRD work closely to co-manage the WCRLMF within the current framework. It is important to have the flexibility to adapt and take proactive action to better manage the resource and the fishery within the aforementioned rights-based framework.

WRL asserts that the implementation of Principle 6 must be done under circumstances where the recognised co-managers of the fisheries are correctly identified. For WRL this requires amendment to the Regulations to properly identify Peak Bodies responsible for this shared duty.

WRL also recognise that some issues continue to be inflexible without obvious benefit. To facilitate the efficient and cost-effective operation of the fishery it is suggested that policy amendments, which may be adopted in Management Plans, should be considered. Areas appropriate under this Principle where flexibility may be necessary include improved policies for over and under catch management, the treatment of carryovers, incidental catch limits, development and application of industry standards and review of research and development targets.

#### **2.2. Proposed amendment to align responsibilities for management**

Amend Regulation 4. Body prescribed (Act s. 4(1) peak industry body) to recognise the Western Rock Lobster Council and Aquaculture Council of Western Australia as commercial seafood peak bodies prescribed for the purposes of the definition of peak industry body in section 4(1) of the Act. In view of the existing roles and funding and reporting agreements made directly with the Minister, this amendment should proceed without delay.

## **3. Principle 9**

### **Principle 9. Management is to facilitate enhanced recreational fishing experiences.**

Recreational fishing should be addressed in resource access security frameworks and sustainability initiatives. It contributes to the reduction in biomass but is largely an unreported user. This undermines both environmentally sustainable fishing and rights-based frameworks upon which food security and sustainable commercial fishing rely.

Education of recreational fishers to support sustainable fishing practices should be part of the licencing process. Amendments to policy and the FRMA to require online reporting of take by recreational fishers is necessary under Principle 5. Further, commercial fishing peak bodies should be genuinely consulted about strategies to improve recreational fishing experiences where there is a risk of unintended consequences on commercial fishing activities.

#### **4. Principle 10**

**Principle 10. Management incorporates the development of accountable co-management arrangements including with peak sector bodies or other organisations.**

Management should include the development of accountable co-management arrangements with peak bodies and other relevant organisations. Principle 10 is central to defining the relationship between co-managers and determining the appropriate level of delegated responsibilities, which will vary according to the maturity of the fishery and peak body. Peak bodies engaged in co-management operate under funding agreements and are subject to certification and standards compliance. Reviews of these agreements provide an opportunity to address key issues collaboratively and, where appropriate, enable the delegation of responsibilities from the Minister or CEO through provisions incorporated in the agreement.

#### **5. Principle 12**

**Principle 12. Fish are a common pool resource, and fisheries allocations may change over time.**

##### **5.1. Meaning of Principle 12**

Fish are a common pool resource managed by the State for the benefit of present and future generations. Fisheries allocations may change over time, however, the basis upon which the change occurs is unclear. The FRMA sets broad objectives to support commercial, recreational, aquaculture, and other users while preserving ecological sustainability. However, the FRMA lacks clear guidance on how to prioritise competing uses for reallocation or resolve conflicts between sectors. Current provisions offer aspirational goals such as achieving “optimum economic, social and other benefits” without defining criteria or processes for determining what “optimum” means, and to whom.

Lack of reliable data on effort and catch creates challenges for formal allocation and systemic planning. In practice, allocations often rely on informal agreements rather

than transparent, legislated processes. Clearly defined methodologies for allocating value to the various fishing sectors is necessary to ensure decisions are made on a defensible, predictable and transparent basis. Sustainable outcomes require a rights-based approach that clearly defines fair shares for all sectors and embeds transparent allocation principles in law.

Management plans under the FRMA are typically technical compilations of rules rather than strategic frameworks. They lack overarching objectives, performance indicators, and long-term visions, leaving management vulnerable to *ad hoc* decisions and compromises. These gaps undermine confidence and fail to address growing pressures from population growth, coastal development, and competing marine uses.

## 5.2. Proposed Amendments

- (a) Embed explicit allocation principles in the FRMA, including criteria for prioritising uses and resolving conflicts between sectors.
- (b) Recognise traditional and customary fishing rights in legislation, supported by mechanisms for data collection and consultation.
- (c) Recognise and require accurate and timely data collection and analysis on recreational fishing.
- (d) Require management plans to include strategic objectives, performance indicators, and allocation frameworks, not just operational rules.
- (e) Adopt a rights-based management system that provides certainty for all sectors and prevents over-exploitation.
- (f) Remove capacity for *ad hoc* decision that are not required for sustainability, environmental protection or to respond to changing ecological, economic and social conditions.

## 6. Principle 13

**Principle 13. Compensation will apply where there is a sectoral re-allocation; or a reduction in resource access by means other than for resource sustainability**

### 6.1. Interpretation of Principle 13

The compensation mechanisms available under WA fisheries legislation, the *Fisheries Adjustment Schemes Act 1987 (WA) (FASA)* and the *Fishing and Related Industries Compensation (Marine Reserves) Act 1997 (WA) (FRICMA)* are outdated and inadequate. There is, for example, no compensation payable for loss derived from any

other nexus with a marine park than a lack of access to defined geographic areas due to exclusion from a marine park. Both Acts are fragmented, provide limited compensation options, and fail to address the full spectrum of circumstances in which enduring fishing rights may be affected.

The most significant emerging risk to the commercial fishing industry is spatial squeeze, driven by insufficient marine resource planning. Competing uses, including seismic surveys, carbon sequestration, desalination, offshore wind energy, transmission infrastructure, shipping, marine park exclusions, and offshore oil and gas projects, pose serious threats to resource access and ecosystem sustainability. These activities fall outside the scope of existing compensation legislation.

To ensure fairness and certainty, loss of access rights must be recognised as loss of a statutory entitlement. Compensation should be calculated based on the value of legally defined access rights and incorporated into cost–benefit assessments for competing projects. Funds must be secured from project proponents and quarantined to guarantee timely payment if project actions proceed which impact the industry and individual fishers. Project assessments should consider the impact on sustainable food supply and affected supply chains and processors.

Robust, transparent, and defensible marine resource planning must be elevated as a priority within the State Fishing Policy that should provide direction for managing and mitigating the need for compensation arising from loss of resource access other than for sustainability purposes.

Currently, collaboration between State and Commonwealth agencies and fisheries on marine resource planning and use is inadequate, with consultation often reduced to token engagement. This approach fails to provide the certainty required for industry and government decision-making. A strengthened, integrated planning framework is essential to safeguard statutory fishing rights, support sustainable development, and minimise future compensation exposure.

## **6.2. Proposed Amendments**

- (a) Embed marine resource planning in state fishing policy and mandate comprehensive marine resource planning as a core policy objective to ensure predictable and equitable resource allocation.
- (b) Embed triggers for compensation in the event of resource reallocation.
- (c) Create formal mechanisms for collaboration between fisheries and other state departments to integrate marine resource planning into broader development strategies.

- (d) Pursue statutory requirements for meaningful engagement with the fishing industry during environmental planning processes, ensuring transparency and accountability.
- (e) Develop spatial planning guidelines, prioritising sustainable seafood production and ecosystem health.
- (f) Link planning to compensation risk management by requiring cost–benefit assessments for proposed projects to include potential compensation liabilities, with funds quarantined from proponents to guarantee timely payment if access rights are impacted.

## 7. Principle 14

**Principle 14. Management includes streamlined approval processes to support efficient decision making.**

WRL consider that efficiency gains will be made from aligning licence and lease renewals and licencing between fisheries. An automated register which allows on-line transfer of entitlements will support this principle.

## 8. Principle 15

**Principle 15. Customary fishing is recognised as a separate fishing sector with unique non-commercial rights, including priority in allocations of aquatic resources.**

Formal allocation of catch to customary fishers remains challenging due to limited reliable data on fishing effort and catch volumes. Traditional fishing practices often intersect with recreational and commercial activities, creating complexity in management and allocation processes. WRL strongly supports the recognition and protection of customary fishing rights within a rights-based fisheries management framework, while acknowledging the practical difficulties associated with implementation.

## **F. Principles that can be adequately addressed through other policy instruments during Stage 2**

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### **1. Principle 11**

#### **Principle 11. Devolution and delegation of decision making to appropriate levels within Government.**

WRL is the western rock lobster industry peak body, which must be recognised by amendment to the Fish Resources Management Regulations 1995 (see section 3.2 of this submission). Despite a shared management process and years of increasing capacity within WRL and decreasing capacity within DIPRD, a number of operational matters are required to be processed at CEO or Ministerial level which could be more efficiently managed if delegated to appropriate departmental officers, or the co-managers of the fishery, by inclusion in funding agreements and management plans. Strategies for implementing this Principle can be developed during the first half of 2026 to coincide with funding agreement review and implemented as part of stage 2 of this amendment process.

### **2. Principle 7**

#### **Principle 7. Management is to be contemporary and focused on realising the optimum environmental, social and economic value from our aquatic resources.**

This principle requires a robust policy framework and clear guidelines to ensure that value modelling is credible, economically sound, and applied consistently across all fishing sectors. Without such consistency, there is a significant risk that methodologies for assessing environmental, economic and social value will produce results that are indefensible, making comparisons between sectors unreliable and reducing community trust in the management of marine resources, fisheries and fishing sectors.

### **3. Principle 8.**

#### **Principle 8. Management is to facilitate economic efficiency and industry profitability across all sectors.**

#### **3.1. Interpretation of Principle 8**

Principle 8 complements Principles 2 and 4 to achieve best practice in fisheries management. It focuses on using research and modelling to set current and future catch levels within an economically sustainable range, informed by market demand and species biology. The concept of maximum economic yield (MEY), the catch or effort level that maximises profit over time, underpins this approach. MEY typically

corresponds to a lower catch level (and higher biomass) than maximum sustainable yield (MSY) and can be used, alongside other inputs, to inform total allowable catch recommendations. MEY is the primary harvest objective for the West Coast Rock Lobster Managed Fishery, accounting for 70% of the State's seafood GVP and jobs.

The MEY model evaluates costs, biomass, catch rates, and long-term price responses to quota changes, enabling assessment of profitability under different scenarios. Science based stock assessment models project biomass and catch rates over five-plus years for each quota level, providing an equilibrium view of resource sustainability under varying management strategies.

This multi-level model has been tried and tested by the WCRLMF and is best practice in fishery management for economic efficiency, sustainability and profitability which affect stewardship and sustainability of the resource for the community.



## 1. Appendix 1 - FRMA Strategic Advisory Group (FSAG) Terms of Reference

### 1. Background

In response to the decision in June 2024 to not proceed with ARMA and instead build benefits into existing legislation (being the Fish Resources Management Act 1994 (FRMA) and the Pearling Act (1990)), Western Rock Lobster Council (WRL) have determined to form a specialist advisory group, the FRMA Strategic Advisory Group ('the FSAG'), to advise WRL and the Joint Industry Working Group<sup>1</sup> regarding key legal, legislative and strategic issues and options to inform WRL and Joint Industry input to the reform of the FRMA.

The reform process is a WA Government process, led by the Department of Primary Industries and Regional Development (DPIRD), which engages commercial fishing sectors and other stakeholders. Commercial fishing and aquaculture sectors are committed to maintaining adherence to Joint Industry agreed principles which have also received support from government and recreational fishers as part of the government process.<sup>2</sup> A copy of the Principles are at Schedule 1.

### 2. Purpose

Establish a specialist advisory group to consider and advise on key legal, legislative and strategic options and issues to achieve the requisite amendments to current legislation to meet industry needs and maintain focus on the agreed Principles. FSAG advice will be used to inform WRL's representations and advice back to government. They will also be made available to the WAFIC Fishing Industry Legislation Working Group and the other commercial fishing sector bodies through the Joint Industry Working Group comprising CEOs and Chairs of the peak bodies.

### 3. Terms of Reference

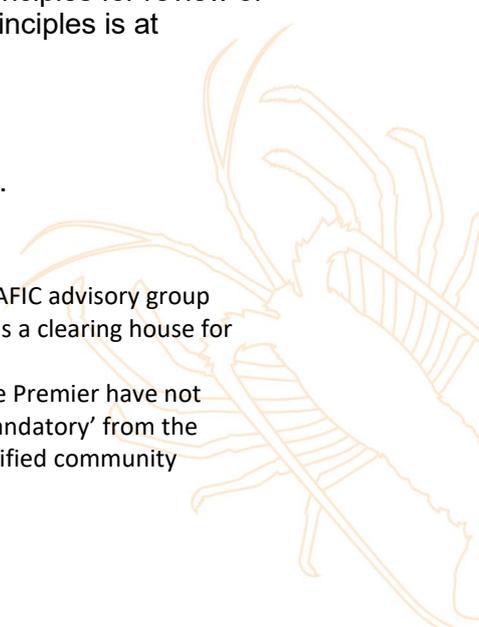
Acknowledging the priority that implementation of Principle 3 holds for all commercial fishing sectors, consideration of all aspects of FRMA, subsidiary legislation and policy amendments and reforms necessary to implement the 15 Policy Principles for review of the FRMA to achieve commercial fishing priorities. A copy of the Principles is at Schedule 1

### 4. Out of scope

Specific issues relating to the Pearling or Aquaculture sectors.

<sup>1</sup> The Joint Industry Working Group is a structure for bringing together the WRL and WAFIC advisory group advice and maintaining a joint industry approach to the process of change by acting as a clearing house for sharing of industry advice and data.

<sup>2</sup> Recfishwest and DPIRD acknowledge the need for Principle 5, but Recfishwest and the Premier have not given unqualified support to the Principle, preferring instead to remove the word 'mandatory' from the Principle. An independent community survey conducted by WRL in 2025 clearly identified community support for Principle 5.



## **5. Membership**

The FSAG is a high-level advisory group of the WRL Board, all members are appointed by WRL.

Invited Members of the Group are as follows:

1. Mr Russell Barnett, (Chair)
2. Mr Bruce Cockman,
3. Mr Matt Taylor,
4. Mr Clayton Nelson,
5. Mr Geoff Adams,
6. Mr Guy Leyland,
7. Mr Rob Fish
8. Ms Erica Starling, and
9. Prof. George Kailis,

## **6. Tenure**

All appointments to the FSAG are for the period of 12 months with the option to be convened as necessary to inform input to the drafting of the legislative amendments in subsequent years.

## **7. Remuneration/Reimbursement**

- (a) Members of the FSAG who are not already funded to represent the seafood industry are entitled to be suitably remunerated and reimbursed for expenses, as determined by the WRL Board, from time to time.
- (b) No other remuneration or reimbursements shall apply.

## **8. Functions**

The FSAG is responsible for the following functions:

- (a) review existing work to identify gaps and priorities in achieving the review and amendment of the FRMA, subsidiary legislation and policies;
- (b) identify significant risks (current or emerging) as they relate to the amendment of the FRMA and the implementation of the Principles, and advise on their prevention, mitigation and management;
- (c) provide input to drafting instructions for proposed legislative changes to accommodate the Principles; and
- (d) provide high level advice to WRL and the Joint Industry Working Group regarding the same.

## 9. Conduct of Meetings:

9.1 The WRL Chair will chair meetings and provide updates to the Board as appropriate.

9.2 In the event the chairperson is absent then the WRL Chief Executive will chair the meeting.

9.3 An estimated minimum four meetings per annum will be necessary to provide advice to the process.

9.4 Meetings of the FSAG shall be held by the members of the FSAG being present in person at the appointed time and place for the meeting, unless the Chair determines that the meeting may be held by online linkup by which all members of the FSAG who are able to attend the meeting are able to speak to, and hear, each other.

9.5 The WRL Policy & Governance Officer will act as executive officer to the FSAG and will ensure FSAG discussions, advice and directions are accurately recorded and communicated appropriately.

## 10 Contacts

Name	Mobile	Email
Mr Russell Barnett (FSAG Chairperson)	0438 710 917	<a href="mailto:russell@ventureconsultants.com.au">russell@ventureconsultants.com.au</a>
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Ms Erica Starling	0417 077 708	<a href="mailto:erica@iofa.com.au">erica@iofa.com.au</a>
Prof. George Kailis	0419 996 464	<a href="mailto:gmkailis@gmail.com">gmkailis@gmail.com</a>
Ms Joy Johnston (FSAG Executive Officer)	0404 089 224	<a href="mailto:joy@westernrocklobster.org">joy@westernrocklobster.org</a>

## 11 General

These draft TOR are open to comment and amendment as necessary and will be tabled at the first meeting of the FSAG for amendment or ratification.

### Joint Industry Policy Principles for Review of FRMA

1. The WA government recognises the broad value of the seafood industry and fishing to the community and economy, and its dependence on security of access to fish and aquatic resources.
2. Ensuring ecological sustainability; and managing resources in accordance with the principles of Ecological Sustainable Development (ESD) and Ecosystem Based Fisheries Management (EBFM). Where the sustainability of aquatic resources is deemed to be at risk, an effective management response is required immediately.
3. Individual transferable quota and other rights-based commercial fishing and aquaculture resource and access entitlements are secured by registration, enduring, unable to be diluted, assignable and protected at law.
4. Management should be evidence and risk-based with clear, prioritised objectives and transparency.
5. Where sustainability of an aquatic resource is at risk, accurate and timely reporting of catch in all sectors should be implemented to ensure trust, accountability and sustainability.
6. Management should improve flexibility to ensure adaptability and resilience within fisheries management frameworks.
7. Management is to be contemporary and focused on realising the optimum environmental, social and economic value from our aquatic resources.
8. Management is to facilitate economic efficiency and industry profitability across all sectors.
9. Management is to facilitate enhanced recreational fishing experiences.
10. Management incorporates the development of accountable co-management arrangements including with peak sector bodies or other organisations.
11. Devolution and delegation of decision making to appropriate levels within Government.
12. Fish are a common pool resource, and fisheries allocations may change over time.
13. Compensation will apply where there is a sectoral re-allocation; or a reduction in resource access by means other than for resource sustainability.
14. Management includes streamlined approval processes to support efficient decision making.
15. Customary fishing is recognised as a separate fishing sector with unique non-commercial rights, including priority in allocations of aquatic resources.

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## 2. Appendix 2 - Proposed amendment to definitions of resource access rights

CURRENT DEFINITIONS OF RESOURCE ACCESS RIGHTS	PROPOSED DEFINITIONS OF RESOURCE ACCESS RIGHTS (s 4)
FRMA	FRMA
<b>Authorisation</b> which is a numbered licence	<b>Authorisation</b> which is a numbered licence
<b>Entitlement</b> means an entitlement that a person has from time to time under a managed fishery licence or an interim managed fishery permit	<b>Entitlement</b> means an entitlement that a person has from time to time under a managed fishery licence or an interim managed fishery permit
<b>Licence</b> means any of the following —	<b>Licence</b> means any of the following —
(a) an aquaculture licence;	(a) an aquaculture licence;
(b) a commercial fishing licence;	(b) a commercial fishing licence;
(c) a fishing boat licence;	(c) a fishing boat licence;
(d) a fish processor’s licence;	(d) a fish processor’s licence;
(e) a managed fishery licence;	(e) a managed fishery licence;
(f) a recreational fishing licence;	(f) a recreational fishing licence;
(g) any other licence provided for in the regulations;	(g) any other licence provided for in the regulations;
WRLMF Management Plan	FRMA
<b>Unit of entitlement</b> represents a fixed amount of allowable catch as determined at Schedule 8 of the Management Plan	<b>Unit of entitlement</b> means an individually numbered, fixed, proportion of allowable catch as determined by the Management Plan
<b>Usual entitlement</b> means the entitlement conferred by a licence without regard to any entitlement temporarily transferred to or from the licence under section 141 of the Act;	<b>Enduring Units</b> means the fixed number of Units of entitlement which are conferred by a licence under a Management Plan, without regard to any entitlement temporarily transferred to or from the licence under section 141 of the Act;