



4 March 2009

The Hon Norman Moore MLC
Minister for Fisheries
4th Floor
London House
St George's Terrace
Perth WA 6000

Dear Minister

Subject: Separate Aquaculture Laws

Thank you for the opportunity for ACWA to be part of the briefing and discussions held in your office on the 22nd of January 2009.

Your proposal, (and the reasons for it), that new legislation for aquaculture be introduced in 2009 as a new Part of the Fish Resources Management Act (FRMA), as opposed to a separate Act, was presented to members and resulted in considerable debate within the association, with the outcomes advised below.

ACWA's Preferred Position

The preferred position of ACWA is that separate legislation is required in Western Australia for the aquaculture industry.

This position is supported by two independent reviews (Lendich 2004, and Ciffolli, 1994).

ACWA understands that the need for separate legislation was also recommended by the Report of the FRMA Review Committee and the Report of the Aquaculture Bill Task Force, of which the latter, (we understand), included considerable evidence as to why aquaculture cannot be managed within a legislative framework designed principally for the management of a natural resource.

Considerations on Which the Position of ACWA is Based

(ACWA's submission is presented without prejudice, with the overriding objective to design a regulatory regime that will facilitate the development of a world class aquaculture industry in Western Australia.)

The ACWA considered the following in the development of its position;

- The legislation in the Fish Resources Management Act reflects the title, it is an Act for fish resources management. The Act, and consequently the department, has a focus on fishing and fish processing management, wild catch fishery research, license administration, the regulation of licensees, and compliance and penalties.
- Aquaculture has been clearly defined throughout the world, not as a resource, but as a food producing primary industry. Appropriate legislation for aquaculture, and the culture of the administering body, thus needs to reflect this definition.
- For an industry to be given the appropriate recognition and succeed, it must be administered by its own regulatory regime, eg, the only WA aquaculture industry which has prospered is the pearl industry and that has its own Act.
- Because the focus in the FRMA, and in the Department of Fisheries, is on wildcatch fisheries there are few persons working in the Department that have a significant background in aquaculture or primary industry management.
- Without separate legislation for the aquaculture industry, this new and growing primary industry will continue to be considered as a subset of the wildcatch fishing industry, an industry which is mature and declining, and continue to expose aquaculture to an administrative and research culture that reflects the status of the wildcatch fisheries.

Nonetheless, the Minister's comments on the practical issues related to the introduction of new legislation have been considered in a positive manner with a view to finding a way forward that achieves aquaculture legislation that meets the considerations listed above and reflects the Minister's advice.

A Way Forward

Following on from discussion with its members ACWA advises its acceptance of the proposal that appropriate legislation for the management of the aquaculture industry can be drafted and introduced in 2009 as part of the FRMA, subject to the following conditions¹:

1. The Name of the FMRA to be amended to the *Fisheries and Aquaculture Development Act*.
2. The objects of the Act to be amended to give priority to seafood industry development, rather than natural resource management; and

¹ ACWA can upon request provide details of specific, priority areas that are needed to resolve long standing impediments to this sectors development.

The aforementioned conditions are fundamental for a law reform program that will create a superior regulatory regime for the aquaculture industry. If these conditions cannot be met within 2009, the aquaculture industry will wait for the separate Aquaculture Act. Please note that ACWA will also make a separate submission advising of industry's views on the minimum content of the reformed legislation.

Thank you for providing ACWA the opportunity to provide you with further advice. I would be pleased to provide your office with further information should you require.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'M. Ball', written in black ink.

Max Ball

Chair

AQUACULTURE COUNCIL OF WESTERN AUSTRALIA