



Review of commercial fishing and aquaculture peak body representation to the WA Government

Dr Nick Rayns

FutureCatch Consulting

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Disclaimer:

In preparing this report the author has made all reasonable efforts to ensure the information it contains is based on evidence. The views expressed in this report are those of the author based on that evidence. The author does not guarantee that there is not further evidence relevant to the matters covered by this report and therefore urges those with an interest in these matters to conduct their own due diligence before drawing their own conclusions.

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Precis

Reviews of the performance of peak industry bodies in delivering representative services to their members, non-members and/or the government are regularly conducted across Australian jurisdictions. Many industry representative models have been used in Australian fisheries, but few have lasted more than a decade as governments and/or industries abandoned one in favour of another as preferences changed. The Western Australian Fishing Industry Council (WAFIC) is one of the few peak industry bodies to have endured over the decades. During that time, it has generally maintained the support of the fishing industry and had a strong working relationship with the WA Government to the benefit of both parties. However, in recent years WAFIC has been challenged regarding its performance in fulfilling its representative role to government in a manner that demonstrates value for money.

The key finding of this review is that to be a representative body that the WA Government can seek services from, WAFIC needs to make changes to its rules of association, policies and business culture. These changes form many of the recommendations of this review and include improving the breadth of WAFIC's membership and voting system, increasing the expertise base of the board, better managing conflicts of interest and having a more collaborative approach with other fishery stakeholders. Similarly, DPIRD needs to improve its management of the agreements it has with WAFIC so that value for money can be better demonstrated and remedial action to improve performance taken if necessary. This may require building minimum standards into any future funding agreement including regular high-level engagement between the parties.

Regarding the Aquaculture Council of WA (ACWA), to better manage conflicts of interest it should be independent of WAFIC but collaborate with it and the WRLC on whole of fishing industry issues. To be effective this may require a dual structure with a development arm alongside a representative body. Similarly, the Western Australian Rock Lobster Council (WRLC) should report directly to the WA Government while working collaboratively with WAFIC and ACWA on whole of fishing industry issues. WAFIC, ACWA and WRLC should each have their own agreements and funding streams with the WA Government which will also enable value for money to be better measured. Other industry bodies such as Southern Seafood Producers of Western Australia (SSPWA) should remain under WAFIC.

If agreed to and implemented these new arrangements are highly likely to improve the collective performance of industry and government with respect to any funding agreements between them. However, to be successful structural changes need to be accompanied by behavioural change. More collaboration, courtesy and respect by all those in leadership positions within the three industry organisations and DPIRD will engender greater trust and confidence between the parties and with other fishery stakeholders.

Finally, if the parties are unable to make the changes this review recommends and are accepted by the WA Government, there remains the choice that the status quo is acceptable (which is not supported by this review) or that agreements between them should cease. In the latter case an alternative industry representative model could be considered to enable the WA Government to receive advice from the WA fishing industry perhaps through a government appointed advisory committee.

Executive Summary

WAFIC is an independent not for profit body with rules of association it must comply with. In short, it must pursue its objectives on behalf of its members. WAFIC's membership is primarily made up of producer organisations and businesses. The producer organisations have their own rules of association and so must pursue their objectives on behalf of their members. These may or may not be the same as WAFIC's and even if they are each organisation's priorities may differ from those of WAFIC. Collectively WAFIC's membership makes up a significant proportion of commercial fishing and aquaculture businesses in WA while many other businesses are unaffiliated.

WAFIC is recognised in law as the peak commercial fishing industry body for WA. The WA Government (the Minister for Fisheries and/or the relevant government department) has had a succession of agreements with WAFIC for the provision of services. These services relate to industry representation and consultation. This review is primarily concerned with the representation funding agreement, but the recommendations may apply equally to the other agreements. In short, this review considered whether WAFIC could deliver the services sought of it by the WA Government through the industry representation funding agreement and whether the services provided are value for money.

The funding agreement between the Minister and WAFIC entitled 'Provision of Peak Body Representation of Commercial Fishing, Pearling and Aquaculture Interests' (the agreement) describes the WA Government's expectations of and deliverables from WAFIC. However, it is not well drafted and neither party has met all its requirements. Importantly, while the WA Government may seek consensus advice from WAFIC on the fishing industry's position on a matter, under WAFIC's rules of association, inherent conflicts of interest and with only partial representation of the industry this is unlikely to be achievable.

The funding agreement with government also requires WAFIC to have subsidiary funding agreements with relevant member associations (e.g., ACWA and WRLC). These are to provide greater accountability from those member organisations receiving public funds from WAFIC. Based on a sample of performance reports from those organisations it is unclear what benefit is derived from these subsidiary agreements for WAFIC or the government. There is no evidence of any performance evaluation or value for money assessment based upon the reports WAFIC receives. This also extends to reports provided by WAFIC to DPIRD.

Those contacted as part of this review had a range of opinions on WAFIC's engagement with non-members. Most acknowledged that the current chair and CEO had recently made greater efforts to undertake such engagement. This is a significant commitment of time by both officers but must be continued in some form to ensure there is a line of communication between the WAFIC Board and WA fishing businesses. Without this, the ability of WAFIC to meet the expectations of the WA Government under any funding agreement will be diminished. It would also be advisable for WAFIC to clearly demonstrate to WA fishing businesses what the benefits of WAFIC membership are.

Despite recent efforts to introduce independent directors both WAFIC and WRLC have largely remained producer boards with directors elected by the membership. To meet the requirements of future agreements offered by the WA Government WAFIC will need to ensure its board has members with expertise in areas including governance, social science and strategic thinking. This may require changes to the rules of association and or WAFIC policy to ensure such expertise is present on an on-going basis. These were raised as current areas of weakness in WAFIC by questionnaire respondents along with the need to provide board members with adequate training to

fulfill their duties. Better management of conflicts of interest is another area where WAFIC policy and possibly the rules of association may need to change to ensure probity in the use of public funds. Furthermore, WAFIC needs to achieve greater diversity, including gender diversity, amongst its directors and committee members to better align itself with WA Government expectations.

In addition to the above there are two specific issues that warrant attention, the relationship between WAFIC and ACWA and that between WAFIC and the Western Rock Lobster Council (WRLC).

Aquaculture has been identified as a priority area by the WA Government and this should be reflected in the status of, and resourcing for, ACWA. There is also a need to address the conflicts of interest that may arise between aquaculture and commercial fisheries. It is implausible that when such conflicts arise that WAFIC can act in the best interests of both parties when providing advice to government. As such this review supports ACWA becoming a stand-alone body with its own funding stream from the WA Government and working cooperatively with WAFIC on common issues. Funding, through written agreement, should be used to support an expertise-based board (including an independent chair), an independent EO and operational seed funding. Given the wide range of scales of aquaculture a developmental leadership group drawn partly from ACWA with external expertise may also be advisable.

WRLC has sought its own funding agreement with the WA Government on representational matters and a consequential increase in the share of public funds it receives that currently go to WAFIC. While this review supports the WRLC being able to report to the WA Government in its own right, it does so on the basis that WRLC works cooperatively with WAFIC on common issues and that WAFIC retains sufficient funding to be able to reasonably undertake its representative duties for other WA fisheries. As with ACWA, if public money is provided to WRLC then this should be subject to a written agreement.

As with WAFIC, ACWA and the WRLC should be required to amend their policies and rules of association to meet the reasonable expectations of the WA Government in relation to utilising public funds through a funding agreement. These expectations should form part of any written agreement.

A future consideration may be whether an expanded SSPWA and an equivalent trawl fishing body could have similar arrangements to ACWA and WRLC. This would depend on developing a level of cohesiveness within what would be two broad-based organisations along with capacity building and sourcing the necessary funding.

This review has resulted in a range of recommendations that address the matters raised above. The recommendations cover the key areas requested of the review in the ToRs. The findings and recommendations of the review follow.

Findings and Recommendations

Value for Money

The parties to the current funding agreement for industry representation, WAFIC and DPIRD, are only partially meeting their reporting and performance review responsibilities. There also appears to be inconsistent high-level engagement between them.

Recommendation 1: WAFIC and DPIRD take action to fully meet their reporting and performance review responsibilities under current and future the funding agreement for industry representation, including holding regular meetings to discuss strategic issues.

Some passages in the current funding agreements are unclear, internally inconsistent and in one or two cases may not be able to be fulfilled. Furthermore, the standards expected to be met by WAFIC in terms of organisational governance are not clearly stated.

Recommendation 2: To the extent that WAFIC and DPIRD renegotiate the agreements from 1 January 2022 they should take steps to ensure any ambiguity is removed and governance expectations are clarified so that the parties can reasonably meet all their obligations.

It is unclear what value is being gained from the use of subsidiary agreements between WAFIC and its member organisations as there appears to be no performance evaluation of them by WAFIC or DPIRD.

Recommendation 3: DPIRD and WAFIC reconsider the need for subsidiary agreements in relation to the funding agreement and do so by determining an acceptable level of risk in relation to the use of public funds.

The reporting that has been undertaken is only partially consistent with the funding agreement between WAFIC and DPIRD and along with the absence of an acquittals process in WAFIC and performance management by DPIRD means that value for money in the use of public funds cannot be adequately determined.

Recommendation 4: WAFIC and DPIRD address shortcomings to ensure reports and performance reviews (including remediation) are specifically relevant to the funding agreement and are of a form that enables value for money to be adequately determined.

Structure & Funding

Given conflicts of interest between WAFIC and ACWA it is unreasonable to expect WAFIC to fairly represent the aquaculture sector's interests. As such this review supports ACWA as a stand-alone body with its own funding stream from the WA Government through a funding agreement. However, it would continue to work cooperatively with WAFIC on common issues. An expertise-based board (including an independent chair), an independent EO and operational seed funding are suggested priorities along with an industry development group drawn from ACWA with additional external expertise.

Recommendation 5: ACWA reports directly to the WA Government with its own government funding stream and agreement while working cooperatively with WAFIC on common issues and having a strong development focus.

WRMC has sought its own funding agreement with the WA Government on representational matters and a consequential increase in the share of public funds it receives that currently go to WAFIC.

While this review supports the WRLC being able to report to the WA Government in its own right, it does so on the basis that WRLC works cooperatively with WAFIC on common issues.

Recommendation 6: WRLC reports directly to the WA Government with its own government funding stream and agreement while working cooperatively with WAFIC on common issues.

Noting the recommendations above, the agreements between government and the industry bodies (WAFIC, ACWA and WRLC) are used to distribute public funds based on the priorities of the WA Government. While each body would receive its own funding stream it is important that WAFIC retains sufficient funds under its agreement with government given its representative role for many fisheries and fishing businesses along with common issues.

Recommendation 7: Through any future funding agreement with the WA Government WAFIC retains sufficient funding to be able to reasonably undertake its representative role for WA fishing businesses.

Governance

WAFIC's current rules of association and relevant policies may require amendment if it is to enter into future agreements with the WA Government. Improved governance (including better managing conflicts of interest), a more expertise-based board, training for board members and improved communication with WA fishing businesses are several areas of change. Furthermore, WAFIC needs to achieve greater diversity, including gender diversity, amongst its directors and committee members to better align itself with WA Government expectations.

Recommendation 8: WAFIC amends its rules of association and/or policies to:

- **enable a transition over two years to an expertise-based board with a minimum of three independent directors,**
- **have a three-year term for an independent chair,**
- **prevent industry office bearers from being WAFIC directors,**
- **record how actual, potential or perceived conflicts on the board have been managed,**
- **have more equal gender diversity on the board with preferably a greater age range,**
- **require formal governance training for board members within three months of appointment, including current board members, and**
- **improve communication with non-affiliated WA fishing businesses.**

If the recommendations to have ACWA and WRLC report directly to the WA Government are accepted then both bodies, like WAFIC, need to improve their governance (including managing conflicts of interest), transition to a more expertise-based board, ensure good industry communication and increase diversity, including gender diversity, amongst its directors and committee members.

Recommendation 9: In similar terms to WAFIC, ACWA and the WRLC amend their rules of association and/or policies to meet the reasonable expectations of the WA Government in relation to utilising public funds through funding agreements.

There is also a need to consider what a stable, long-term structure for WAFIC may be. Noting the recommendations above for ACWA and WRLC, it may be that other sector bodies can also come under similar arrangements, subject to any funding and capability constraints. SSPWA is already formed which would leave mainly a group of trawl fisheries as those that currently lack a single representative body.

Recommendation 10: As a longer-term proposition, WAFIC and the WA Government may consider the formation of additional industry bodies on the same terms as WRLC and ACWA.

Behavioural and Cultural Change

As well as changes to structure and governance, changes to organisational behaviour and culture are equally important. Behaving in a manner consistent with the reasonable expectations of the government and public is an important benchmark against which organisations can measure their performance, and to do so requires both an understanding of those expectations and to act on them in a public manner. This needs to be done with courtesy and respect for all views that in turn builds trust and confidence between fishing industry stakeholders and with the public.

Recommendation 11: WAFIC, WRLC and ACWA work together on how to gain greater trust and confidence from the government and public regarding the WA fishing industry including adopting a culture of mutual understanding, respect and collaboration.

Implementation

The 11 recommendations above are significant changes to the current operating environment for WAFIC, ACWA, WRLC and DPIRD. Two steps to their implementation are suggested. The first is a written undertaking from each of the four parties that they agree in principle with the recommendations as accepted by the WA Government. The second is to agree to an implementation plan of 18 months between each of the three industry organisations and DPIRD to implement the accepted recommendations. This will provide adequate time for WAFIC, ACWA and WRLC to make any changes to their rules of association and/or relevant internal policies and processes.

The two steps should preferably be completed by 1 January 2022 at which time new funding agreements would take effect. If the parties agree to the two steps by 1 January 2022, then two and a half-year funding agreements (1 January 2022 to 30 June 2024) could be entered into with each industry organisation and the recommendations of this review, as accepted by the WA Government, built in as six-monthly milestones. Eighteen months into the funding agreement (June 2023) an external review should provide recommendations to the Minister as to whether WAFIC, WRLC, ACWA and DPIRD have met their responsibilities under each of the agreements and whether those agreements should be extended beyond June 2024.

To help ensure the implementation plan stays on track the four parties should meet every six months to review progress.

If ACWA or WRLC do not agree to steps one and two above, then DPIRD should not sign a funding agreement with the relevant body and government funding for representational services withdrawn. If WAFIC does not agree to steps one and two then a final 12-month funding agreement for 2022 should be signed to enable WAFIC to restructure its business to operate without government funding.

Recommendation 12: The implementation and review process described above be adopted by the WA Government in its dealings with WAFIC, ACWA and WRLC.

Introduction

This review is about the performance of WAFIC under the representation funding agreement it has with the WA Government. It also considers the arrangements between WAFIC and ACWA and WAFIC and WRLC. There are also matters considered relevant to DPIRD's contractual arrangements with WAFIC. The review includes consideration of the structure and governance of WAFIC in representing the commercial and aquaculture sectors of the WA fishing industry to government and benefits gained from this arrangement by the WA Government in the expenditure of public funds.

Consistent with the Terms of Reference, this review makes recommendations to the Minister for Fisheries in relation to the future structure of commercial fishing and aquaculture peak body representation, the appropriateness of the governance of the representative organisations receiving public funds, the benefits seafood sectors receive from those organisations and whether WA taxpayers receive value for money.

Background

The WA seafood industry contributes around \$1 billion to the WA economy each year and employs more than 6,000 people. It also injects almost \$400 million into the broader Australian economy. Importantly, many of these jobs are in regional communities through owner operators and small businesses.

Peak industry bodies, WAFIC & its affiliates

The Western Australian Fishing Industry Council (WAFIC) is the peak industry body representing the fishing industry in Western Australia as recognised in Part 1, section 4 of the *Fish Resources Management Regulations 1995*. WAFIC is established as a not-for-profit organisation that is regulated by the Western Australian Department of Commerce. WAFIC has rules of association (constitution) that set out its objects and powers that provide it with the opportunity to contract with other parties that '...it considers necessary or desirable'. WAFIC's board members are elected by its membership for staggered three-year terms, noting its members represent a subset of all fishing businesses in WA.

WAFIC has a funding agreement in place with the Minister responsible for Fisheries titled "Provision of Peak Body Representation of Commercial Fishing, Pearling and Aquaculture Interests" that expires on 31 December 2021. Under this agreement WAFIC receives government funds equivalent to 0.5% of commercial fisheries GVP and a contribution from pearling and aquaculture marine lease holders. In terms of WAFIC's roles and responsibilities in the agreement, it is to observe guiding principles (including communication principles), enable the value proposition (including stated activities) and meet the peak body deliverables. Furthermore, WAFIC is expected to ensure appropriate standards of behaviour and conduct in the expenditure of public funds.

WAFIC also has subsidiary funding agreements with at least two industry bodies for the provision of representational services which also expire on 31 December 2021. Under its funding agreement WAFIC must ensure that there are appropriate governance requirements to address the use of public funds by its member organisations and these subsidiary funding agreements seek to meet that requirement. Note that member organisations are also incorporated bodies with their own rules of association. Collectively this creates a challenging framework within which all parties must

operate to pursue both the objects of their own organisation and those of the agreements they have entered into.

WAFIC also has a service level agreement in place with the Department titled “Provision of Consultation Services”. This agreement is not directly considered in this review but is referred to where relevant and the recommendations of this review may be useful in relation to it.

WAFIC’s stated purpose is to “secure a responsible and sustainable industry that is confident of resource sustainability and security of access to a fair share of the resource; cost-effective fisheries’ management; that businesses can be operated in a safe, environmentally responsible and profitable way; and that investment in industry research and development is valued and promoted.”

It has both a vision and a mission respectively:

“A successful, sustainable, rights-based commercial fishing industry buoyed with community support”

“WAFIC is the recognised peak body to protect, promote and support development of the commercial fishing industry”.

It also has mission objectives that are to be pursued through a cooperative approach and to ensure the value, security and sustainability of commercial fishing, pearling and aquaculture in Western Australia.

WAFIC’s leadership has stated its strong commitment to:

- Ethical and responsible conduct;
- Environmental sensitivity and responsibility for sustainable fisheries and other marine resource management;
- A factual and open approach to issues;
- An appropriate sharing of risks and rewards by all stakeholders;
- Self-regulation; and
- Technical and operational excellence.

There are many commercial fishery representative bodies under WAFIC for some 45 recognised fisheries. These include the Western Rock Lobster Council (WRLC), Pearl Producers Association (PPA), the Abalone Industry Association of WA (AIAWA), the Southern Seafood Producers of WA (SSPWA) and Shark Bay Prawn Trawl Operators Association (SBPTOA). In addition, the Aquaculture Council of WA (ACWA) is also a WAFIC industry body that provides a representational role for industry to the government in relation to policy and legislation development specific to aquaculture.

The WAFIC Board meets about 6 times per year and has stated its commitment to best practice governance and values open and accountable communication with WAFIC’s stakeholders. WAFIC further states that following each board meeting, the Chair or his delegate, issues a Board Communique that provides an overview of the current issues and challenges considered by the Board during each meeting. However, this appears to have lapsed with the latest posting on the WAFIC website dated October 2017.

During the 2019-20 financial year WAFIC made submissions on the following matters on behalf of the fishing industry regarding reviews of WA state and Commonwealth policy and legislation that

impact members, including the Environmental Protection and Biodiversity Conservation Act and the Commonwealth Fisheries Resource Sharing Framework. Further submissions (including appearances at hearings) were in relation to:

- the Legislative Council inquiry into Property Rights in Fisheries legislation;
- Industrial Manslaughter;
- Senate Seismic Inquiry;
- NOPESMA – Maintenance and removal of property policy;
- Offshore Petroleum Exploration Acreage Release in Commonwealth waters; and
- Browse to North West Shelf Project and North West Shelf project extension.

While it is not possible here to provide a summary of all the representative bodies under WAFIC, two are particularly relevant to this review and can give a useful insight into broader industry priorities, ACWA and WRLC.

ACWA

ACWA has highlighted two key issues, funding and planning. ACWA reports that its operational funding has remained at \$50,000 per annum since 2010, which it regards as significantly below the requirements to represent a growing industry that the WA Government has stated its support for. WAFIC has supported ACWA with additional interim funding to maintain basic ACWA operations while longer term solutions are found. Aquaculture planning in WA is currently a work in progress in which ACWA is engaged.

WRLC

WRLC's strategic initiatives are improving security of access rights and funding of WRL by industry rather than relying on the government. Alongside these was the need to increase the community's trust and awareness of the western rock lobster industry. To pursue these strategic initiatives WRLC has increased its human resourcing and appointed an Executive Officer, Marketing and Communications Officer, Economist, Project Officer and Digital Technologist.

Methodological approach to the Review

Gathering information relevant to the review was primarily undertaken via questionnaire that in most cases involved a conversation with those completing it. By their nature the responses below are qualitative. Twelve individuals were interviewed using one of two standard questionnaires that covered scope requirements of the ToRs in relation to WAFIC and ACWA. These individuals included current and past chairs, CEOs and board members of WAFIC, ACWA and WRLC. A senior departmental officer also completed the WAFIC questionnaire and discussions were held with senior officers. Many respondents also provided additional information orally and/or in writing which added value to the review process. A further source of information for this review were reports available from the Fisheries Research and Development Corporation that provide guidance regarding industry representational frameworks.

The responses to the two questionnaires are summarised below against each of the questions asked. Questions denoted 'A' were specific to aquaculture.

Q.1 WAFIC and/or ACWA **constitution (rules of association) and membership structure**? Is it fit for purpose for the next 5 to 10 years?

Most respondents answered 'no' to this question while a minority had no fixed view due to having insufficient knowledge to comment. Most stated that neither the WAFIC rules of association or membership were capable of successfully dealing with the issues currently before it and those that are likely to arise in future. Responses to questions 6-8 elaborate on this. Many said that the construction of the rules of association limited diversity of membership and allowed insufficient scope for independent directors on the board who had the breadth of skills and experience to address current and future issues. One respondent stated that the membership rules may be subject to change at the next AGM. For ACWA similar comments were made although the small size (capability and capacity) of the WA aquaculture industry made this a difficult issue to address. Several respondents pointed out that WAFIC membership was only a portion of all fishing businesses in WA.

Q.2 Do you think the current **WAFIC and/or ACWA board** works well and what improvements can be made?

Both boards were seen as performing fair to poorly by most respondents. No respondents thought that either board was currently performing well. This was in part attributed back to the composition of the boards arising from shortcomings in the rules of association and memberships. However, other matters, including conflicts of interest of board members and the organisations being too inward looking were commonly raised. That there was no membership crossover between the boards was seen as a shortcoming by a minority. Regarding WAFIC, most respondents thought it not currently capable of successfully undertaking its industry representational role to government because of the shortcomings described above.

Suggested improvements were to increase the number of appropriately skilled and experienced independent directors, not allow office bearers of member organisations (e.g., directors, chairs, CEO and EOs) to be board members and ensure all directors undergo adequate external training so they understand their governance responsibilities. At least one director being common to both WAFIC and ACWA boards was seen as beneficial by

some respondents although this raises conflict of interest issues. About half the respondents expressed the view that if WAFIC was unable to address these matters (including those at Q.1) then an alternative means for the WA Government to gain fishing industry advice must be found.

- Q.3 How well are **industry sectors (incl. SSPA, Abalone, Prawns and WRLC)** and broader industry represented by WAFIC, and what improvements can be made?

This was an area where there was no majority view on any matter. Many respondents both supported WAFIC's industry representation efforts for other sectors while at the same time criticising its performance regarding their own sector. For example, while WRLC saw benefit in WAFIC continuing to represent other sectors it claimed WAFIC provided it with few benefits. Other industry sectors see greater value in WAFIC as it has a capacity and capability they could not each afford alone. It was acknowledged by several respondents that the current chair and CEO were making greater efforts to meet with grass roots fishers who were not members of WAFIC or of organisations affiliated to WAFIC.

Despite the above issues most respondents expressed support for maintaining avenues of communication between industry, WAFIC and government. Notably, there was consistent support for the Industry Consultation Unit and annual management meetings between each fishing sector, WAFIC and government.

- Q. 3A How well does ACWA perform in relation to **servicing the aquaculture industry (incl Pearls) and engage with stakeholders and the community?**

Given the recent loss of the chair and EO and a significant company member, along with insufficient funding, respondents were open in admitting that at present ACWA had little capacity to engage with stakeholders or the community. To the extent it did occur, this was usually at the company level for a specific aquaculture development or regional issue. The Pearl Producers Association has also advised government that it is repositioning itself towards more company-based engagement with government, except for safety issues which are an acknowledged industry-wide priority.

In terms of solutions, ACWA has recently advertised for an independent chair, to be followed later by an EO. A policy officer has also been flagged as a possibility for the future. The majority thought that ACWA should remain within WAFIC and was largely driven by funding concerns.

- Q. 4 How well does the **current funding framework** operate, including the **secondary funding agreement between WAFIC and ACWA?**

Respondents were ambivalent about how well the current funding framework operated. They noted that WAFIC had been using its own funds to support ACWA since funding generated by the aquaculture sector itself was insufficient. It was generally recognised that this could not continue and alternative funding needed to be secured to pay ACWA's costs. Government's public support for aquaculture was welcomed but it was noted this had not been matched with financial support.

- Q4A What are your views about a potential **aquaculture advisory committee** or other consultative/representative model?

Views were mixed regarding support for an advisory committee at this time given the current structure and size of the industry. Funding was again the main issue preventing formal consideration of alternative representational models for aquaculture. On the basis that this would not change it was regarded as a matter that could be revisited in the future depending on whether funds became available.

Q.5 Can you give an example of **intra and/or inter sectoral allocation** issues WAFIC has been involved in, and what could be improved?

Most respondents struggled to provide examples of either intra or inter sectoral allocation issues that WAFIC had been instrumental in resolving in recent years. Two provided were shark depredation amongst commercial industry groups and overfishing of demersal species by recreational fishers. A minority commented that it is perhaps the role of government to deal with intersectoral issues even if changes to WAFIC's structure and governance issues could address intra-sectoral matters within commercial fisheries.

Respondents linked the improved resolution of intra sectoral issues with the need for the WAFIC rules of association and membership to be amended. Some respondents also pointed to WAFIC's choice to be either a collaborative or a confrontational body when it came to dealing with RecFish West and other external stakeholders. Several noted that the WAFIC board was often split on which stance it should take making its relationship with external parties unpredictable.

Q.6 How has WAFIC set the **strategic direction** for industry and served commercial fishers best **economic interests**? Can WAFICs performance be improved?

WAFIC's current Strategic Directions Statement 2018-2021 has been the basis for its priority setting and those respondents that were aware of it thought it was generally being pursued. Marine Park compensation, the MSC initiative, more secure property rights and the response to COVID were regarded as strategic successes for WAFIC. Its sub-committee structure largely reflected these priorities, although several respondents stated that to their knowledge only two committees were currently active. Some respondents were aware WAFIC was in the process of developing a new strategic statement/plan.

Based on the comments of respondents, improvements need to be made in the transparency of sub-committee deliberations and how those translate into positions the WAFIC board takes in relation to strategic issues. The consultation with the broader fishing industry on such issues was regarded as a shortcoming that should be addressed.

Q.7 What **leadership** has WAFIC and/or ACWA demonstrated in relation supporting industry to adapt to externalities such as **social licence and climate effects**? Can this leadership be improved?

Most respondents acknowledged that social licence was a significant issue for the fishing and aquaculture industries. Several stated that the WAFIC board was not unanimous on this point. The majority understood the need to address it and most regarded the best means of doing so was to communicate with the public about the fishing industry and its benefits to WA. A minority of respondents raised the need for the fishing industry to understand what the public was saying about the fishing industry and to take those concerns seriously.

Climate effects were seen as a significant issue by some, but all respondents admitted there had been little action taken by WAFIC or ACWA to consider how to adapt.

Q.8 How has WAFIC and/or ACWA supported industry to **adopt new technologies** that support its viability? What can it do to improve?

Most respondents stated they were not aware of WAFIC and ACWA activity in adopting new technologies regarding it as largely an issue for specific industry bodies or companies to take the lead in this area. WAFIC and ACWA were seen more in a supporting role by some, e.g., assisting sourcing funding. Some respondents noted that WRLC had recognised the need to adopt new technologies through digital platforms.

No suggestions for improvement were made on the basis that respondents did not see a significant role for WAFIC in technology adoption. Several respondents expressed concern about R&D both in terms of sourcing funding for projects and how money received was being invested.

ARE THERE ANY OTHER COMMENTS YOU WOULD LIKE TO MAKE IN RELATION TO THIS REVIEW?

The relationship between WAFIC (including industry sector bodies) and DPIRD was raised by almost every respondent, particularly how much it could be improved. Common concerns raised were an apparent lack of interest in addressing industry priorities from DPIRD, protracted periods of non-response from DPIRD to industry matters, gaps in government fisheries policy and expectations of WAFIC and ACWA that could not always be met. This last point particularly applied to ACWA where WAFIC was subsidising its operations. Concerns raised about WAFIC were an inability to provide an industry view on key issues in a timely way, the sometimes poor quality of the advice and in rare instances purposeful undermining of the government's position. Respondents were unanimous that there was an urgent need for the WAFIC-DPIRD relationship to improve. In addition to the views expressed in response to Q1-8 on how to do so, several respondents added that understanding of and respect for each other needed to be rebuilt.

Pathways for Improvement

Consistent with the ToRs of the review this part of the report considers value for money, structure, funding and governance along with roles and responsibilities for WAFIC, ACWA, WRLC and DPIRD. In doing so it takes into consideration responses to the questionnaire and additional relevant information provided to, or sourced by, the reviewer.

Value for Money

The reporting and review requirements of the funding agreement 'Provision of Peak Body Representation of Commercial Fishing, Pearling and Aquaculture Interests' have not been met by the contracting parties. WAFIC has provided a single deliverables report for 2019-20 and none yet for 2020-21. The funding agreement requires both an annual deliverables report (section 5, point 6) and an annual performance review based on it (section 7.1). While WAFIC is required to provide the deliverables report it is unclear who is responsible for the performance review, although this is assumed to be DPIRD.

Regarding the WAFIC 2019-20 deliverables report, the activities and outcomes listed cover matters both within and outside the scope of the funding agreement and include those associated with, among other things, the service level agreement (SLA) 'Provision of Consultation Services' with the Industry Consultation Unit (ICU). This latter agreement has separate funding and reporting

processes (section 10 of the SLA). In addition, the 2019-20 deliverables report does not apportion expenditure and there is no acquittal process.

Given the above matters it is not possible to determine whether the use of public funds has been value for money. Regular meetings between senior DPIRD staff and the WAFIC Board would be a good start in rebuilding a working relationship that can successfully manage issues as they arise and keep funding agreements on track. These undertakings should be built into any future agreement between the parties.

A final matter is the relationship between the various formal reporting avenues for WAFIC and its member organisations - funding agreements, service level agreements and annual reporting. There are considerable overlaps and gaps in reporting, along with matters seemingly reported in the wrong place. Clarifying reporting lines, including what and who, is necessary to enable determination of value for money provided under specific agreements. This should include reconsideration of the benefits of any subsidiary funding agreements between WAFIC and other organisations which are currently of unquantified benefit.

Structure and Funding

Currently ACWA and WRLC are required to provide their formal advice to the WA Government through WAFIC on all but rock lobster or aquaculture specific issues. It is on this basis that WAFIC has subsidiary funding agreements with both organisations. In reality these formal reporting lines are not always observed. Notwithstanding this, there are governance reasons why the formal reporting lines are an unsuitable arrangement for ACWA. Conflicts of interest may arise for WAFIC when it attempts to represent aquaculture interests that may impact on commercial fishing interests, for example, over proposed aquaculture lease sites. As such this review supports ACWA becoming a representative body with its own funding stream from the WA Government supported by a written agreement. However, it should continue to work cooperatively with WAFIC on common fisheries issues where conflicts do not arise such as sea safety or climate effects. Such a structural change must be accompanied by changes to ACWA including a more expertise-based board with an independent chair, an independent EO and operational seed funding that enables it to collaborate on projects with others.

A further consideration is the developmental focus for aquaculture which requires sometimes different expertise than ACWA can deliver alone. An aquaculture development body drawn from ACWA with relevant external experts may be a useful addition to identify and support specific larger scale aquaculture developments.

For WRLC there is no such conflict just a strong desire to represent itself to government. This is not an uncommon situation where there is a single large fishery amongst many smaller ones. While this review supports the WRLC being able to represent itself to the WA Government in its own right, it does so on the basis that WRLC works cooperatively with WAFIC on common issues. A funding agreement between WRLC must be struck with government that determines priority activities and the amount of money that WRLC receives for pursuing them.

If these changes for ACWA and WRLC take place, then it would leave WAFIC and the government with a hybrid model of representation. While this can work a longer-term outcome may be to have the rest of the WA fishing industry subject to the same arrangements as ACWA and WRLC. One way

to achieve this could be to expand the SSPWA scope of fisheries and form a fourth body that encompasses the trawl fisheries. However, this should only take place if there is sufficient capacity and capability to do so within such organisations on an on-going basis.

As noted above the agreements between government and the industry bodies (WAFIC, ACWA and WRLC) are used to distribute public funds based on the priorities of the WA Government stated in any funding agreement. While each organisation receives its own funding stream it is important that WAFIC retains sufficient funds under its agreement with government to pursue its representative role for most WA fishing businesses and in handling common, cross cutting issues. Adopting these arrangements may save WAFIC at least \$100,000 per annum (currently provided to ACWA from non-aquaculture funding sources) and negate the need for WAFIC to have subsidiary funding agreements with ACWA and WRLC.

Governance

WAFIC's current rules of association and/or policies are not fit for purpose if it is to enter into future agreements with the WA Government. Improved governance, a more expertise-based board and broadening the membership of WAFIC are the key areas for change.

Foremost amongst the governance issues is conflicts of interest. These may be actual, potential or perceived and all must be managed well to achieve good governance. An example of such conflicts are office bearers (directors, CEO and EOs) of WAFIC's member organisations also being WAFIC board members. There is a potential conflict of interest for a board member who is both a WAFIC Board member and an officer bearer of a member organisation that has their own rules of association. Such a person may have access to proprietary information the other organisation does not. If the person uses that information in their second organisation that would be a conflict of interest.

While WAFIC's rules of association require the recording of any declared conflicts of interest by board members at a board meeting, good practice is to extend this to record how the conflict of interest was handled by the board. This requirement should also apply to the board's sub-committees to ensure a consistency of approach in all WAFIC-managed entities. Good governance aims to both minimise conflicts of interest arising and managing them effectively when they do. This preserves the integrity of, and trust in, organisations. The Australian Charities & Not-for-Profits Commission provides a useful guide on how to manage conflicts of interest.

Another important governance issue is the current lack of diversity in WAFIC's office bearers (directors, CEOs and EOs). While the current WAFIC board members exhibit good practical fisheries and seafood knowledge, there is low age and gender diversity. Furthermore, WAFIC's board membership does not align well with the capabilities and capacities needed to meet the requirements of future government funding agreements, particularly the need for skills in areas such as governance, strategic thinking and social sciences. The OnBoard WA Government website gives useful guidance on diversity stating that for any board or committee, diversity of representation, skills and background is critical to ensuring effective decision-making. A range of life experiences, technical knowledge and capabilities brings broader perspectives and insights, improving the performance and leadership of an organisation. While the government's diversity requirements do

not bind the private sector it does serve the purpose of reflecting the WA Government's expectations which in turn are likely to reflect those of the WA community.

A further governance matter for WAFIC to consider is its approach to membership. Currently its members make up a moderate proportion of all WA fishing businesses making providing an industry position to government difficult. While the current chair and CEO are making efforts to meet fishing industry groups across WA this needs to be made into a more sustainable and enduring approach to industry engagement. Such an approach may help improve membership and when combined with regular meetings between WAFIC and sector bodies lead to more coherent advice to government.

While the above governance matters have focussed on WAFIC, if ACWA and WRLC are to receive public funding under an agreement with the WA Government then both bodies, to the extent they have not done so already, will need to improve their governance and structure on the same terms. Managing conflicts of interest, transition to a more expertise-based board, working to broaden industry membership and increasing diversity amongst its directors and committee members.

A final matter is WAFIC's and DPIRD's contract management regarding reporting and performance review against the agreements. There is no feedback process taking place between the parties and no process to identify and rectify under-performance, including any stated consequences for WAFIC or its publicly funded member organisations should under-performance persist. The WA Government has a comprehensive contract management suite to assist in implementing these arrangements and runs regular training sessions on its application. These may be useful for relevant DPIRD and WAFIC officers to attend.

Given the need to improve governance within all organisations (WAFIC, DPIRD, WRLC and ACWA) consideration should be given to the need for any director or senior official to gain formal training through courses such as those run by the Australian Institute of Company Directors so that they can better fulfill their duties. Furthermore, to reassure government that WAFIC can fulfill its role under any funding agreement minimum standards of governance should be stated in the funding agreement.

Behavioural and Cultural Change

While WAFIC's engagement with the commercial fishing and aquaculture industries can be improved, its approach to engaging with the public needs to be strengthened as well. While it recognises this, WAFIC's current engagement largely rests on educating the public about the benefits the commercial fishing and aquaculture industries bring to the state and broader Australian community. The WA Government has also taken the additional step of supporting its fishing industry to seek MSC certification to publicly demonstrate its sustainability credentials. While this is good, the focus on ecological and economic sustainability is not enough to meet present day and future seafood market and public expectations.

The government and public continue to broaden their definition of sustainability to now include human welfare, animal welfare, plastic waste and carbon emissions. In addressing these common issues WAFIC, WRLC and ACWA must seek to understand the views of the government and public as well as be understood by them. Furthermore, they need to respond positively to the reasonable expectations of the government and public, taking a collaborative approach to this relationship. It is the overall, long-term relationship with the government and public that matters, one that should be

based on courtesy and respect. Over time this builds trust and confidence as organisational cultures change to meet the current and future environment in which they operate. If they cannot or choose not to do so, then they put at risk their relevance and reputation.

Concluding Comments

Many respondents to this review were torn between continuing to support WAFIC or abandoning it for a different industry representative model. Almost all respondents agreed that the status quo was not sustainable due to shortcomings in governance, structure and attitudinal issues. In weighing up the arguments put to it, this review has concluded that WAFIC can be made capable of delivering effective fishing industry representation to the WA Government. However, change is required to make this happen and it requires improved cooperation between WAFIC and DPIRD.

Change must start with meeting reporting and performance review requirements of the funding agreements. Neither WAFIC nor DPIRD have fully done so in recent years. There is no performance management process in place meaning there is no consequence if parties to an agreement are non-compliant. As such, the current arrangements for fishing industry peak body representation to the WA Government are only partially effective and steps must be taken to correct the deficiencies. This will enable value for money to the WA taxpayer to be determined and the delivery of publicly funded services to industry and government better managed.

If the WA Government is to have a long-term contractual relationship with WAFIC that delivers value for money then WAFIC will need to amend its structure and governance arrangements. Addressing conflicts of interest, greater engagement with fishing businesses and increasing diversity at the board and senior management level are examples of where improvements must be made. WAFIC may need to amend its rules of association and policies to give effect to these changes. Equally important is for WAFIC to develop its culture so that it can more effectively engage and collaborate with other organisations who share the public resources harvested and cultured by the WA fishing industry. DPIRD also must have a greater commitment to its role in managing the relationship between WAFIC and government.

This review recommends changes that aim to provide WAFIC, ACWA and WRLC an opportunity to work together on common issues while recognising that each organisation must also manage its own interests. Relationships built on courtesy and respect for each other will grow trust and confidence when the industry engages with other fishery stakeholders and the public. Leadership from chairs, board members and CEOs is central to this being achieved and regular meetings between them are recommended.

The recommended steps WAFIC, WRLC, ACWA and DPIRD need to take are significant and have probably been building for the last 5-10 years. They require administrative skill and persistence to fully address. They are nonetheless collectively important if WAFIC, ACWA and WRLC are to be regarded as the most appropriate bodies for the WA Government to have a publicly funded contractual relationship with that delivers value-for-money representational services. In the longer term other representative fishing industry bodies may join them.

If this review's recommendations are accepted by the WA Government they need not all be addressed at once and an implementation process is proposed in the recommendations. This should take no longer than eighteen months to complete.

Useful References

ACWA Rules of Association

ACWA Website [Aquaculture Council of Western Australia – Aquaculture Council of Western Australia \(aquaculturecouncilwa.com\)](http://aquaculturecouncilwa.com)

[Contract management essentials training | Western Australian Government \(www.wa.gov.au\)](http://www.wa.gov.au)

Knuckey, I, 2015 [Review of structural and funding options for a peak body for the Queensland seafood industry | FRDC](#)

[Managing conflicts of interest guide | Australian Charities and Not-for-profits Commission \(acnc.gov.au\)](#)

Ploughman, I, 2013 [People development program: A program to enhance membership participation, association health, innovation and leadership succession in the Australian fishing industry \(Short title - Healthy Industry Associations and Succession\) | FRDC](#)

Provision of Consultation Services. 2018-21 Service Level Agreement between DPIRD and WAFIC

Provision of Peak Body Representation of Commercial Fishing, Pearling and Aquaculture Interests. 2018-21 Funding Agreement between the Minister for Fisheries and WAFIC

Provision of Representational Services for the Aquaculture Industry. 2018-21 Funding Agreement between WAFIC and ACWA

Provision of Representational Services for the Western Rock Lobster Industry. 2018-21 Funding Agreement between WAFIC and WRLC

WAFIC Website [HOME - Western Australian Fishing Industry Council \(wafic.org.au\)](http://wafic.org.au)

WAFIC Rules of Association

Western Australia Department of Commerce Website [Explore the department: | Department of Mines, Industry Regulation and Safety \(commerce.wa.gov.au\)](http://commerce.wa.gov.au)

WRLC Website [Western Rock Lobster Council](http://wrlc.org.au)

WRLC Rules of Association