



Briefing to Legislative Council on the proposed Abalone Rules Disallowance motion relating to Amendments to Fisheries (Abalone) Rules 2017

(November 2021)

INTRODUCTION

TARFish welcomes the opportunity to brief Legislative Council Members and is supportive of the disallowance motion relating to the Amendments to Fisheries (Abalone Rules (2017)).

In providing this briefing document and indicating our support for the disallowance motion in its current form, we will qualify that support by indicating that it is not our preference to have fisheries management decisions be taken by the Legislative Council. It should never have gotten to this point.

At every stage, TARFish has consistently reiterated its first and unwavering position that a fulsome review and proper consultation should have been undertaken rather than what was presented - a set of pre-determined management controls, originally proposed to manage compliance and other issues and that may or may not have the desired effect on sustainability. This is further compounded by the absence of wider management considerations and solutions that may improve protections and sustainability for the abalone fishery.

TARFish has consistently requested the Government and the Minister withdraw the changes and recommence the process. Added to this, we have advocated, since 2019, that a resource sharing arrangement be developed for the fishery that considers the rights and aspirations of recreational fishers. This has not taken place in the three years since first requested, not only by TARFish but many members of the recreational fishing community.

The letter from Minister Barnett to Legislative Council Members on 5 November 2021 indicates that a resource sharing arrangement is now to be considered. If this is the commitment, then the simple solution would have been for the Minister to withdraw these proposed rule changes and develop one. To commence that process now means we are still years away from having one in place. At a time when the Government has shown an inability to implement the single biggest protection to the abalone fishery and its return to sustainability, namely the implementation of size limit changes to protect spawning biomass, creates a level of scepticism that such a resource sharing arrangement will be given priority. The Government is now faced with a potential successful disallowance motion that could have been avoided if; consultation was genuine, consultation was informed by the science, but which wasn't shared in a timely or relevant way, and which cherry picked decisions of the Ministers own advisory committees was not taken in a piecemeal and highly selective way.

Item	Key Points
Sustainability of abalone stocks	<ul style="list-style-type: none"> – The single biggest protective mechanism for the sustainability of the abalone fishery is protection of the spawning biomass. This is achieved by increasing size limits to allow three years spawning before being available for harvest. – Implementing size limit changes likely to have the protective factor on localised depletion – Implementation of size limit changes was resoundingly endorsed by the Minister’s Recreational Fishing Advisory Committee (RecFAC) and Abalone Fishery Advisory Committee (AbFAC) – Size limit changes have not been implemented – Review of Harvest Strategy (Little, January 2021) recommends <i>“The Harvest Strategy should clarify whether avoiding localised depletion is a management objective with the action to achieve the objective is establishing legal minimum length (LML) and the conclusion is “These results, particularly from the Eastern zone, point out wide spatial variability both within blocks, and across blocks. An LML of 3-year post maturity, “the 3-year rule” seems to be able to the job it was designed to do, which is to protect a proportion of the spawning biomass of local populations.”</i>
Consultation	<ul style="list-style-type: none"> – Proposed changes were not a review. – Proposed changes were not proposed for the sustainability of the fishery but to manage “compliance and emerging issues.” The emerging issues indicate compliance was the driving factor, not sustainability. – TARFish misled as to the timing and content of any potential amendment proposal and found it extremely difficult to obtain relevant and timely information. – The DPIPWE had not formally requested TARFish advice on any of the proposed amendments before they were released into the public domain on 28 June 2019, despite requesting updates on numerous occasions on the status of the review.
Science	<ul style="list-style-type: none"> – There was no accompanying scientific explanation for the proposed changes when released for public consultation – The brief scientific information had a narrow frame in which IMAS was asked to prepare a response. “Science” provided is a short paragraph of observation and opinion of a single scientist without any discussion or report. – Science did not consider impacts of alternative measures such as size limit changes. – The “science” provides no detail, no source of information and discussion on the modelled impacts of such changes. It is vague and lacks rigour. – The “science” was not provided until almost a month after public consultation. – TARFish had 4 days to consider the information before making its submission. This is not an acceptable level of time for appropriate consideration of scientific information. – RecFAC was provided a briefing on the sustainability of abalone stocks. Provided as a powerpoint on the day and guided by DPIPWE and the scientists, there was no opportunity to take the information away, consider it or discuss it with other specialists.
RecFAC endorsement for proposed changes	<ul style="list-style-type: none"> – There was no provision of a scientific report prior to the meeting so that questions could be formulated or checked with other experts. The presentations are typically powerpoint with members taken through them quickly and discussion guided by DPIPWE and the scientists. The potential to guide the committee to conclusions by using this method is considerable.
Report to minister downplays important issues	<ul style="list-style-type: none"> – Does not address the potential protections provided by the implementation of size limit changes. – Does not recommend progressing a resource sharing arrangement as requested by TARFish. – Does not address the concerns regarding consultation (review and process)

TARFish strongly supports returning the abalone fishery to a sustainable level.

The sustainability of the fishery is cited as the most pressing matter to be addressed in the “*Report to the Minister on Proposed Alternations to the Abalone Fishery*” (Report to the Minister).” A copy of this report was provided to Legislative Council Members on Friday 5 November 2021 along with the letter from Minister Guy Barnett.

Frighteningly, the Minister and DPIPWE have not done the one thing that will offer the greatest protection to the abalone fishery – implement size limit changes to protect spawning fish.

The Report to the Minister states (pp29), “*The current size limits in the commercial abalone fishery are thought to protect no more than 8% of the spawning biomass. With this minimal level of protection (i.e. ~ 92% of spawning biomass is available to recreational and abalone fishers), catch restraint is the primary method for ensuring long-term sustainability of the Tasmanian abalone resource. This information combined with much lower abalone density move-on triggers in the recreational fishery, means there is a heightened risk of localised and long-term depletion from recreational fishers.*”.

I re-state, current management controls protect NO MORE THAN 8% of the spawning biomass.

By our reading, this means that the failure to act on implementing the size limit changes is now resulting in recreational fishers bearing the burden of management changes to mitigate this failure.

To put the implementation of size limit changes in context, both the Ministers Recreational Fishing Advisory Committee (RecFAC) and Abalone Advisory Committee (AbFAC) resoundingly endorsed their implementation as far back as July 2019. They have continued to endorse and re-endorse their implementation. There has been no change and no implementation. A summary of these endorsements by both committees is provided as **Appendix 1**.

The salient point here is that the single biggest protective mechanism for the sustainability of the abalone fishery is protection of the spawning biomass. What is unclear is why this has not taken place.

If the government were serious about their protection of the abalone fishery, they would have applied protections for spawning biomass. This is achieved by increasing size limits to allow three years spawning before being available for harvest.

It is also likely to have the protective factor on localised depletion that the proposed management controls on recreational fishers.

The failure to address this issue is the reason that the Government has chosen to apply catch constraint to recreational fishers. These changes were rushed through with the size limit changes still unimplemented.

Further background:

The sustainable management of the Abalone Fishery is managed through a commercial harvest strategy:

The Harvest Strategy Expired in 2020

A new harvest strategy and therefore the changes to size limits is unlikely until 2022 or 2023. Meaning that size limits will have been delayed for at least 3 of the 5-year implementation timetable.

A review of the expired harvest strategy was conducted by the CSIRO (Little) and finalised in a report from January 2021.

Importantly, the first recommendation is “*The Harvest Strategy should clarify whether avoiding localised depletion is a management objective with the action to achieve the objective is establishing legal minimum length (LML) and the conclusion is “These results, particularly from the Eastern zone, point out wide spatial variability both within blocks, and across blocks. An LML of 3-year post maturity, “the 3-*

year rule” seems to be able to the job it was designed to do, which is to protect a proportion of the spawning biomass of local populations.”

The final recommendation states, “DPIPWE and AbFAC formally respond to the recommendations.” It is unclear if either the Department or AbFAC have responded to those recommendation formally, and certainly not publicly.

CONSULTATION: FLAWED, ABSENT OF RELEVANT INFORMATION

The Letter from Minister Guy Barnett to Legislative Council Members on 5 November 2021 states “*The rules were based on evidence-based science and involved extensive consultation with stakeholders.*”

Responding to the assertion that there has been “extensive consultation” with TARFish, the peak body for recreational fishers, we offer the following comments.

TARFish became aware of the Abalone review proposal as far back as August 2017, through our involvement with the Recreational Fishing Advisory Committee (RecFAC).

The context of the proposed review was a “formal review of catch limits and introduction of a boat limit ...” with the stated outcome of a halving of the bag/possession limits for the recreational sector.” TARFish considers having a departmental objective of having the bag/possession limits halved before a review has commenced is a fundamental flaw in any process. A review process should identify the issues, collect relevant data/information and carefully consider proposed solutions to address key issues. In this case the DPIPWE appear to have arrived at the solution/desired outcome before the review commenced.

Issue 1: Proposed changes were not a review.

DPIPWE commenced a review without any supporting information, scientific or otherwise support the proposed changes and with an outcome already identified.

TARFish did support a review (as noted at the RecFAC meeting of April 2018) and emphasised the preferred approach was to gather as much information as possible to justify any proposed reduction.

Issue 2: Proposed changes were not proposed for the sustainability of the fishery but to manage “compliance and emerging issues.” The emerging issues are not specified despite the information being requested.

In November 2018, TARFish requested clarification of what the “compliance and emerging issues” were and supporting details. None provided.

It was not suggested that sustainability was the driving determinant of the proposed changes at that time and only later appear to be retrofitted to meet the goal of “sustainability”.

Issue 3: TARFish misled as to the timing and content of any potential amendment proposal

It should be noted that the DPIPWE have not formally requested TARFish advice on any of the proposed amendments before they were released into the public domain on the 28th June 2019, even though we requested on numerous occasions details on the status of the review. This is disappointing given TARFish is the government recognised peak body for recreational marine fishers in Tasmania. Whilst we were aware of a potential review commencing sometime after August 2017 we were not kept informed over that period as to its progress and contents, hence why we have provided no formal advice outside the public submission process.

In October 2018, TARFish requested advice seeking IMAS/DPIPWE advise re impacts on Abalone sustainability of a halving of the recreational bag/possession limits given no formal advice had been forthcoming to TARFish. What TARFish was being told in Abalone meetings over the period did not align with what DPIPWE were indicating as justifications for such drastic action on bag/possession limit reductions, considering the recreational sector catches 20 tonne per annum out of a total of 1333 tonne

state-wide total allowable catch for 2019. The IMAS advice we requested in October was received one week before public submissions closed on 28 July (see following section for further detail).

In March 2019, TARFish met with the Director of Marine Resources and was advised that the abalone amendments "were not a priority issue for the DPIPWE"

On 26 June 2019, TARFish CEO attended the Abalone Research Advisory Group (RAG) meeting which was attended by DPIPWE representatives. No mention was made imminent release of Abalone Amendments proposal.

On 27 June (4.20pm), DPIPWE emailed draft proposal to TARFish CEO. The proposal was released the following day for public consultation.

SCIENCE SELECTIVELY SUPPLIED AND APPLIED

Public consultation on the proposed changes to the Abalone Rules was released into the public domain on 28 June. There was no accompanying scientific explanation for the proposed changes.

It was only at the request of TARFish that a rushed response was provided by the Institute of Marine and Antarctic Studies (IMAS) via email from Craig Mundy (Senior Research Fellow) to Rod Pearne (Principal Fisheries Management Officer (recreational fisheries)).

Importantly, the question that was asked of IMAS was for "*Information sought regarding relevance of recreational harvest, catch limits and relationship to sustainability.*"

This limited approach only allowed IMAS to provide a narrow-scoped response on how management changes, namely bag cuts, could benefit the fishery particularly in the context of localised depletion.

The "science" provided by Craig Munday to Rod Pearne in an email on 22 July stated:

"Hi Rod,

Rushed for time today. Will this do ...

In the context of the overall Tasmanian Wild-Harvest commercial abalone fishery of ~ 1300, the recreational abalone catch of ~30 t is inconsequential. However, the recreational catch is not distributed uniformly across the Tasmanian coastline, and is also not distributed spatially in the same proportion as the wild-harvest fishery. In 2019, almost all major abalone fishing grounds are in decline, with a few exceptions in the south east an Bass Strait regions. Key areas of the recreational fishery (St Helens, Bicheno, Freycinet, Tasman Peninsular) yield around half of the total recreational catch. In these areas, the commercial harvest has been reduced by 95% since 2001, with no equivalent reduction in the recreational take. Between Cape Pillar north to Bicheno, the Commercial catch is now set at 10 t. There are also calls from some to cease commercial fishing in this region for a period of time to enable stock recovery. At this level it is more than likely that the recreational catch now exceeds the commercial catch, and thus recovery will be more dependent on managing the recreational catch than the commercial catch. I doubt there is any interest in closing the recreational fishery, but I believe there is merit in measures that might achieve a reduction in the overall recreational take, by reducing the total permitted individual harvest level.

Craig"

There are three critical issues here.

Issue 1: The narrow frame in which IMAS was asked to prepare a response.

By framing the question in a way that guides the response to support the proposed changes. It does this by not allowing consideration of other measures that may equally or even improve abalone stock sustainability.

Specifically, the implementation of size limit changes to protect the spawning biomass. This issue is dealt with in more detail in the subsequent section.

Issue 2: "Science" provided is a short paragraph of observation and opinion of a single scientist without any discussion or report.

The "science" provides no detail, no source of information and discussion on the modelled impacts of such changes. It is vague and lacks rigour.

Issue 3: The "science" was not provided until almost a month after public consultation.

It was provided to TARFish on request and subsequently to RecFAC, it was not provided to the public during the consultation period.

TARFish had 4 days to consider the information before making its submission. This is not an acceptable level of time for appropriate consideration of scientific information.

REC FAC ENDORSEMENT FOR PROPOSED CHANGES

The Minister's letter of 5 November 2021, gives the impression that RecFAC have given an unqualified endorsement of the proposed changes to bag limits with the one caveat of limiting its implementation to the East Coast which was later accepted.

It is important to understand the conditions that such recommendations are made.

RecFAC were provided a briefing at the meeting. There was no provision of a scientific report prior to the meeting so that questions could be formulated or checked with other experts. The presentations are typically powerpoint with members taken through them quickly and discussion guided by DPIPWE and the scientists. The potential to guide the committee to conclusions by using this method is considerable.

With very little time to digest and reflect on the material presented, the Committee is asked to make a recommendation(s).

TARFish does not wish to imply that RecFAC members erred in their recommendation but rather the process used to ask them to reach them is fundamentally flawed and does not allow additional information to be considered. As a matter of process, RecFAC members, if being asked to make recommendations should be given all the information (reports/presentations etc) prior to the meeting if expected to provide advice at that meeting.

REPORT TO MINISTER DOWNPLAYS IMPORTANCE OF SEVERAL KEY ISSUES

The Report to the Minister on Proposed Alternations to the Abalone Fishery Management Plan (September 2019) (The Report) significantly downplays three critical items.

Firstly, it does not address the potential protections provided by the implementation of size limit changes.

Secondly it acknowledges the request to enter a formal resource sharing arrangement made by TARFish but does not recommend progressing one.

Thirdly, it acknowledges that there are significant concerns expressed by TARFish regarding the nature of the review and to avoid addressing these concerns, relies on a the RecFAC recommendation to support the changes. It is important to consider those recommendations in light of the way they were presented to the RecFAC.