

INTRODUCTION

Aquaculture is a high technology, high risk industry. Firms that enter aquaculture must be prepared to make significant investments not only in physical infrastructure, but also in technology development.

Government policy and regulation significantly affect the environment in which aquaculture investments are made. It is on this basis that the Aquaculture Council of Western Australia (ACWA) welcomes this Review as industry considers that there is considerable opportunity to improve effectiveness and efficiency of government regulation, policy and ensure its continual improvement.

RECOMMENDATIONS

Effective regulation is essential to ensure markets operate efficiently and fairly, to protect the public and the environment. However, the benefits must not be offset by unduly high compliance and implementation costs. Currently, aquaculture projects are experiencing undue delays in the processing of their applications. This appears to be due to a low priority being given by the DEC assessment division to the processing and assessment of aquaculture projects, as a consequence of the current assessment demand from the resource sector.

There is a strong market signal for aquaculture in Western Australia, the EPA and DEC needs, as a matter of public interest, to prepare systems that will allow decision making over a reasonable period of time and with equivalent certainty to the resource sector.

The recommendations below are presented without prejudice, with the overriding objective to design a regulatory regime that will facilitate a world class aquaculture industry in Western Australia.

Recommendation 1	Implementation of a Strategic Planning/Business Systems Development General Manager in the DEC assessment division.
Recommendation 2	Legislate for continuous improvement practices.
Recommendation 3	Create environmental assessment decision making policy parity between the aquaculture and the resource sector.
Recommendation 4	Use administrative arrangements for the environmental assessment of low priority sectors, for example: <ul style="list-style-type: none"> a. Use of delegated Authority or MOU to an equivalent competent agency. b. Development of an integrated approvals package for aquaculture. c. Development of policy framework that is risk and science based, based on other national and international experience.
Recommendation 5	Implement Information Technology systems that will enable the electronic lodgement of returns and applications

EXPLANATION OF THE RECOMMENDATIONS

1. Implementation of a Strategic Planning/Business Systems Development General Manager in the DEC assessment division.

This General Manager would be free from operational duties and would develop business systems and policy that generate systems that would drive consistency and efficiency in the EPA approval process.

2. Legislate for Continuous Improvement practices.

There is a need to include the objective 'To ensure the efficient and effective regulation of environmental policy'. Historically, the speed of implementation of regulation and policy governing aquaculture has been an impediment to development as much as the policy itself. Unnecessary time delays do not serve the applicant, or the public good. On this basis, there is a need for the implementation of a mechanism that improves accountability as per the Ciffolli and Keating¹ Reviews.

Similar objects have been used to great effect in other legislation, and will assist clarifying the role of the government executive.

This would require a section that details the Efficient Administrative practices, for example:

New Section: Efficient administrative practices

(1) The Minister and other relevant Ministers are to endeavour to ensure that practices are established to integrate and expedite administrative processes under this Act and other Acts so far as is practicable for the efficient and effective regulation of the fishing and aquaculture industry.

(2) Directions may be given by a relevant Minister for the purposes of subsection (1) that will be binding (according to their terms) on a body or persons engaged in the administration of an Act for which the relevant Minister has responsibility.

¹ **Keating Recommendations Re; Timeliness and accountability.**

1. Both primary and secondary approvals legislation and regulation should include processes and timelines, including stop the clock mechanisms, in sufficient detail to guide the process without introducing inflexibility into the system. This could mean changes to legislation to introduce concepts, and providing more detail in regulations and administrative guidelines.

2. Whenever an approval is required, the approving or recommending agency should meet with the proponent at the earliest possible time before an application is submitted and develop an agreed timetable for all actions by both in reaching an approval. For mechanical, non-discretionary steps in the approvals process, set timelines should usually apply.

3. Agencies should maintain comprehensive records of all periods taken for actions to be completed for a particular approval. Agencies should publicly report, on an ongoing basis as well as on an auditable and yearly basis, compliance with timeframes, including details of any deviations from agreed or required timelines and their causes

4. Where agencies are consulted, or are required to be consulted, as part of any action towards an approval, then their response must be available within the allocated timeframe to be included in considerations. Where the consulting agency fails to respond in the given time, the approving agency will take it to mean that there is no objection to, or issues with, the approval being granted.

5. Where any public comment period is allowed, agencies must provide submissions within the same timeframe if those submissions are to be considered.

6. Issues to be addressed by the proponent during an approvals process should be identified to the proponent at the outset. The introduction of new issues should be the exception and processes should be in place to discourage this happening. The Director General of the approval agency would need to be satisfied that there is good reason why any such issues were not raised earlier in the process.

(3) However, this section is not to be taken to authorise a direction that would be inconsistent with a provision of this or another Act or that would govern the nature of a decision that may be made under an Act (as distinct from the processes leading up to the making of a decision).

(4) In this section— "relevant Minister" means a Minister responsible for the administration of an Act that has application in relation to fishing and aquaculture.

3. Create environmental assessment decision making policy parity between the aquaculture and resource sectors.

The State needs a one tier system that provides a clear and transparent and certain process for all sectors. The State, based on a risk assessment, should provide the industry proponent with details of what information it expects in terms of specific baseline environmental assessment and monitoring. This policy work would enable the proponent and the public to know what is required and if the information is provided then the decision maker should have adequate information on which to make a decision.

It is critically important to note that the aquaculture approval process in coastal waters is a public planning process for the zoning of coastal waters. This process involves 60 days of extensive public consultation and the grant of relevant approvals. The details of which are detailed in the Minister for Fisheries policy guideline entitled *Assessment of applications for authorizations for aquaculture and pearling in coastal waters of Western Australia*²

On the basis of the above, the authorization granted has been assessed by the public that the area of water is suitable for that activity; as such the level of environmental protection needs to reflect the community's values i.e. some change in this area is expected in the production of seafood.

The business objectives of aquaculture are to:

- Maximise Growth
- Maximise Survival
- Control Costs
- Minimise Environmental Impact

These objectives cannot be achieved without maintaining high water and environmental quality i.e. it is in the short and long term interest of aquaculture businesses to maintain good environmental quality. This fact is recognized by Department of Environment and Conservation Environmental Values and Environmental Quality Objectives for the marine waters of Western Australia, which states:

"Fishing and Aquaculture are key environmental values; and the Environmental Quality Objectives are that water quality is suitable for aquaculture purposes³"

Given the above it is unlikely that any intergenerational inequity will arise from appropriately zoned aquaculture activity. It is important to note that a bond is required on aquaculture leases for any site remediation, should it be required.

² Refer to <http://www.fish.wa.gov.au/docs/mp/mpg008/fmpg008.pdf>

³ Refer to page 22

http://portal.environment.wa.gov.au/pls/portal/docs/PAGE/DOE_ADMIN/PROJECTS/TAB1142249/PILB_ARACOASTALWATERQUALITY_REPORT2.PDF

3. Use administrative arrangements for the environmental assessment of low priority sectors, for example:

- a. Use of delegated Authority or MOU to an equivalent competent agency.
- b. Development of an integrated approvals package for aquaculture.
- c. Development of policy framework that is risk and science based, based on other national and international experience.

ACWA proposes that the Department of Fisheries undertake the assessment process on behalf of EPA, under a MOU with EPA, like that used for the environmental assessment of translocation of live non-endemic species into or within Western Australia. In doing so this would provide the following;

- “In house” specialist and contemporary knowledge of the science of aquaculture’s environmental impacts, and assessment and management mechanisms of aquaculture in other jurisdictions.
- Release EPA assessment division resources to process applications from other resource sectors.
- Creation of a single “go-to person” for aquaculture applicants, within the Department of Fisheries.
- Creation of a one-stop-shop for the assessment, reporting and on-going policy development and management of environmental issues in the aquaculture sector.

Note on the acceptance of Peer Reviewed Science

The DEC assessment division is information driven. WA aquaculture is a new and emerging industry; first party information on its environmental impacts is therefore limited. It is on this basis that the DEC often imposes extensive baseline and environmental monitoring regimes on the proponent. These are a disincentive to do business in WA, as they are often incommensurate with the projects environmental risk, based on peer reviewed reports and the experience from other jurisdictions on the environmental impacts of aquaculture.

4. Implement Information Technology systems that will enable the electronic lodgement of returns and applications

Proponents need to be able to e-lodge applications, payments, production returns and application environmental monitoring. The reporting should be annual and in an electronic format to ensure efficiency gains through the removal of double handling of data.

FURTHER INFORMATION

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