



GERALDTON
FISHERMEN'S
CO-OPERATIVE
Rock Lobster Exporters

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Rock Lobster Exporters

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Mr Terry Lissiman

Chairman

Western Rock Lobster Council
28 Mews Road
Fremantle WA 6160

Dear Terry,

I understand that the Western Rock Lobster Council (WRLC) is meeting with the Department of Primary Industries and Regional Development (DPIRD) on Wednesday the 24th of April to progress the design of a new Domestic Reservation Scheme which seeks to increase supply of Western Rock Lobster into the domestic market. This follows the agreement struck between WRLC and the Western Australian Government (WAG) on the 8th of February this year whereby:

- WAG agreed not to proceed with its proposal to increase the catch by 1,700 tonnes, of which 1,385 tonnes were to be held by Government;
- It was agreed that the annual catch will be increased by 315 tonnes, in line with WRLC's recommendations last year, with all or a significant majority of this allocated for local supply;
- an annual international rock lobster festival will be established; and
- an independently chaired industry and Government taskforce (the "Premier's Taskforce") will be formed to examine other opportunities to grow the industry, including improving security of fisher's access rights, indigenous participation, providing a better economic return to the State, and increasing community donations.

Firstly, please allow me to reiterate that Geraldton Fishermen's Cooperative (GFC) is supportive of any efforts to grow markets and increase the value of this iconic fishery. Doing so will only continue to increase the economic and social returns that Western Australians already enjoy from years of good management of this precious resource.

To this end, GFC has been and remains willing to engage in a process with WRLC, DPIRD and WAG to explore models for a Domestic Reservation Scheme which will be functional, sustainable and deliver increased value for the State. GFC herewith seeks to contribute to the process and your conversations with DPIRD by outlining GFC's position on:

1. A suggested process to finalise the details of the Domestic Reservation Scheme, including a structured and agreed approach to addressing the issues outlined herein and interim measures for 2019;
2. The overarching principles of a Domestic Reservation Scheme which GFC would support as a minimum, provided that a due and proper process had been followed; and
3. The need for proper due diligence prior to the implementation of any Domestic Reservation Scheme.

GFC is a cooperative of Western Australian fishing families. We are not driven by company profits like some other players in the industry and we have a deep understanding of the fishery and its markets from the boat to the end consumers around the world. Thanks to the ongoing support of our Members we represent the interests of 60% of the fishery and it is with these Members in mind that we make this submission. Our ultimate goal, which we believe is aligned with that of WAG, is to sustainably maximise the returns (both social and economic) from this wonderful fishery.

PROPOSED PROCESS

As this letter seeks to highlight, there is still a significant amount of work required to design and implement a legal and successful Domestic Reservation Scheme. While it may be possible to agree a set of high level principles for the Scheme now (along the lines of those outlined in the following section) there is significant work and due diligence required to design the finer details of a successful scheme. GFC therefore proposes the following process moving forward:

May:

1. Industry and WAG to agree a set of overarching principles of the Domestic Reservation Scheme (along the lines of those proposed in the following section).
2. Industry and WAG to agree the interim measures for 2019 (along the lines of those proposed below).
3. Industry and WAG to jointly communicate the overarching principles, interim measures for 2019 and Project Plan (see point 6 below) to industry and the wider community.
4. WRLC be afforded the time to conduct Member tours in order to seek feedback and support from fishers for the interim measures, overarching principles and Project Plan.
5. WAG to establish a Local Lobster Taskforce (LLT) to act as a project steering committee to oversee the implementation of the Project Plan (see point 6 below). GFC recommends combining the LLT with the Premier's Taskforce given that the skills, experience and commitment of time already exists within that group of experts.
6. LLT to develop and agree to a Project Plan, outlining in detail the process from here through to Implementation, including:
 - a. Finalisation and ratification of the Domestic Reservation Scheme's Objectives (as outlined under the "Due Diligence" section below);
 - b. Key project milestones, deliverables and checkpoints, from Project Initiation through to Scheme Implementation;
 - c. Clearly defined work streams (including but not limited to compliance, legal, systems, economic modelling, market research, etc...)
 - d. Appropriate level and frequency of consultation with WRLC Members and other industry stakeholders to ensure engagement and support for the Scheme as it is developed.
 - e. Agreed funding and resources to be committed to the Project.

June – October

1. The various work streams to be carried out in accordance with the agreed Project Plan.

November

1. Final Scheme, developed in accordance with the Project Plan and supported by stakeholders, presented to WAG.

January 2020

1. Domestic Reservation Scheme implemented.

Interim Measures for 2019:

GFC would support an interim scheme for 2019 which builds on the local lobster tag program. To this end, GFC supports the immediate issue of an additional 150 tags per active MFL, in line with the current Local Lobster Program.

GFC would also support the swift implementation of a charter boat quota in line with points 28 to 31 of the Overarching Principles below.

GFC's Commitment

Given the risks associated with designing a Domestic Reservation Scheme (only some of which are outlined in this letter) GFC will not support any scheme which has not been through a rigorous, structured and well thought-out design and implementation process. That said, if WAG is willing to commit to such a process, GFC will absolutely support and provide as much input, expertise and resources towards that process as possible.

OVERARCHING PRINCIPLES

Assuming support from GFC's and WRLC's Members (via the consultation mechanisms outlined in the section above) GFC would be willing to support, as a minimum, the following set of overarching principles by which a Domestic Reservation Scheme (including an International Lobster Festival) would be designed.

1. No new units or licensing regime will be created for the Domestic Reservation Scheme.
2. The Domestic Reservation Scheme will be supplied via the existing Total Allowable Commercial Catch (TACC) only.
3. Any increase in TACC for supply under the Domestic Reservation Scheme will be issued to existing unit holders only.
4. Only holders of Managed Fisheries Licences (MFL's) can harvest product for the Domestic Reservation Scheme.
5. Scheme to be designed such that the economic yield of the fishery (Maximum Economic Yield, or MEY) can be shown to be maintained or grown, not reduced.
6. The Scheme to be confirmed as fully lawful under both domestic and international laws prior to implementation.
7. The Scheme will in no way put existing markets at risk and, whether already implemented or not, will be immediately stopped if any such risks arise or are identified via due diligence processes.
8. Scheme to have an agreed set of Key Performance Indicators (KPI's) against which success can be monitored.
9. Scheme to be implemented on a three year trial basis with annual review against the agreed KPI's (including cost benefit measures) and pre-defined "go/adjust/stop" hurdles.

10. The annual review process will include a pre-agreed investment by WAG in an appropriate level of market and economic research.
11. Defined volume targets for years 1, 2 and 3 with a phased approach to increasing volumes in order to allow the market to adjust and not get “shocked” (by our calculations, 315 tonnes equates to a nearly three-fold increase in supply to the Western Australian market, or an additional 630,000 lobsters for sale into a consumer base of less than 2 million).
12. Scheme to include an appropriate investment in compliance from the jetty to final consumer, including tracking and monitoring via Fisheye and monthly reporting by DPIRD at all steps along the supply chain.
13. Fishers to be permitted to sell Domestic Reservation Scheme product direct to public.
14. Registered Receivers to be allowed to purchase Domestic Reservation Scheme product direct from fishers.
15. Scheme to be efficient and low cost from boat to consumer to help keep prices low.
16. Domestic Reservation Scheme to extend to any individual or company which handles or trades in Western Rock Lobster, with appropriate compliance measures and price controls (if legal) all the way through to the end consumer.
17. If any Domestic Reservation Scheme product is found to be sold at excessive margins at any point along the supply chain but within the bounds of the lawful compliance system, the Domestic Reservation Scheme will be deemed a failure and halted with all market restrictions on the TACC removed.
18. If any Domestic Reservation Scheme product is found to be traded interstate or exported within the bounds of the lawful compliance system, the Domestic Reservation Scheme will be deemed a failure and halted with all market restrictions on the TACC removed.
19. To minimise the significant financial risks associated with such a Domestic Reservation Scheme (including the risk of creating stockpiles) registered processors will only be required to hold a maximum of 2 months’ supply of Domestic Reservation Scheme product. Past this they will be permitted to export the product but will be required to report within the compliance program accordingly.
20. Aside from the increased investment required for compliance, the Domestic Reservation Scheme will be designed to leverage the existing investment in the supply chain such that costs and therefore final prices to consumers kept as low as possible.
21. The International Lobster Festival to be held in late January/February to coincide with the high catch/low cost period.
22. Product for the International Lobster Festival will be supplied via the Domestic Reservation Scheme.
23. The International Lobster Festival will only be held in metropolitan and regional centres where Western Rock Lobster is caught.
24. The International Lobster Festival will be held in coastal regions so as to drive commerce and tourism in the rural and regional centres where Western Rock Lobster is caught.
25. WA Government Access Fee of 5.75% to apply to Domestic Reservation Scheme product.
26. If the Domestic Reservation Scheme does not meet the required KPI’s or is otherwise deemed a failure, the Scheme will be halted and all market restrictions on the TACC will be removed.
27. The existing LLP to cease upon the implementation the new Domestic Reservation Scheme.
28. Charter boat operators with a Fishing Tour Operators license to be granted a fixed quota from the Recreational Sector Quota.
29. Charter boat operators will not be permitted to sell product into the domestic market.
30. Product caught on charter will only be permitted for consumption on the boat or at the home of individuals with a valid tax invoice from a charter boat operator.
31. Product caught on charter boats to be marked or tagged to easily identify it from recreational or Domestic Reservation Scheme lobster.

DUE DILIGENCE

The Western Rock Lobster industry is world renowned for best practice management. The State of Western Australia has benefitted greatly from these management practices as the health of the fishery has grown and the value of the product has increased. It is incumbent on industry and Government therefore to work together to ensure that any changes to the management of this fishery only builds on this strong base.

Creating and maintaining a dual market structure in any industry is highly complex, both from a practical and regulatory perspective. Indeed, for a non-essential product with a fractured supply chain such as Western Rock Lobster, GFC has struggled to find any functioning models against which to compare. It seems then that the Western Rock Lobster industry is forging new ground, so GFC *strongly* recommends taking a measured and considered approach to implementing such a scheme. To not do so would be reckless and put the industry, and therefore returns to the State, at risk.

To this end, GFC would need to gain comfort that the following issues have been fully addressed before it would ratify and support any Domestic Reservation Scheme:

Clearly defined objectives

To date we are yet to see what could be considered a well-defined set of objectives from which to build the Domestic Reservation Scheme. The only objectives communicated to industry thus far are:

- Affordable supply to meet the high demand periods of Western Rock Lobster in WA (ie, summer, Christmas and Easter)
- Continuous supply of Western Rock Lobster to the Western Australian retail and restaurant sectors and the WA public at an affordable price.
- Western Rock Lobsters supplied at the lowest possible cost to an annual international rock lobster festival
- Enhanced tourism opportunities.
- Implementation, administration and monitoring to be cost effective for both Government and fishers.

GFC maintains that there is a higher level of detail required of these objectives to properly design a Domestic Reservation Scheme of this nature. For example:

- What is deemed “affordable”?
- Does WAG want to see lower prices in the domestic market compared to the export market?
- What is deemed “lowest possible cost”?
- What, over and above that which is currently available, is considered a continuous supply of product into the Western Australian market?
- Does the scheme seek to quarantine 100% of Domestic Reservation Scheme product to the Western Australian market?
- Does the Scheme seek to service metropolitan markets only, coastal markets only (ie, in regions where Western Rock Lobster is caught) or markets state-wide?
- What measures do we use to determine whether the implementation, administration and monitoring is “cost effective”?
- Etc.

GFC suggests that a set of well-defined objectives cannot be answered without first conducting an appropriate level of market analysis and research, as outlined in the following section.

Economic Modelling and Market Research

The concept of increasing supply into the domestic market has been borne from lobbying by certain sectors of the WA economy seeking private benefits for their businesses or sectors. In most instances these groups have their own interests, and not that of the Western Rock Lobster industry or the State of Western Australia, at heart.

To date, the hypothesis that increasing supply of cheaper lobster into the domestic market will result in increased tourism, increased consumption and increased returns to the State of Western Australia has been built on hearsay and intuition rather than any meaningful economic or market research. It is GFC's belief that designing a Domestic Reservation Scheme without the impartial knowledge gained from such research would be reckless and dangerous.

As part of the Project Plan, GFC strongly recommends conducting market research and economic studies of the local market for lobster to understand:

- Current consumption of local and imported product;
- Western Australian consumers' desire for more affordable lobster;
- Price elasticity of local and imported product;
- Current import volumes and consumption;
- Current pricing and margins from jetty to plate;
- Seasonal consumption trends of the local market;
- Modelled impact of varying rates of increased supply to the domestic market;
- Modelled estimate of the maximum size of the Western Australian market;

GFC acknowledges that some of this research may have already been done. If so, we respectfully request that this be released to the industry to assist in this process.

Full Legal Assessment

GFC has serious concerns that any scheme, agreement, mechanism or government directive which explicitly seeks to hold or divert volume away from the interstate or export market may:

- breach provisions within the Australian Constitution;
- breach Australian competition law;
- be in contravention of Australia's various World Trade Organisation commitments;
- be in contravention of provisions under various Free Trade Agreements; or
- jeopardise relationships with and disenfranchise long standing international buyers who may be forced to purchase Western Rock Lobster on unequal terms to those afforded the domestic market.

The current international trade environment is very finely balanced, as evidenced by the current number of high profile trade and legal disputes. WAG has a duty to fully assess and understand these and any other legal implications of any Domestic Reservation Scheme prior to the implementation.

As part of the Project Plan, it is absolutely critical that WAG invests in and shares with industry full legal advice on the above matters prior to ratifying any scheme or arrangement.

Compliance

It is GFC's belief that the decentralised and fractured nature of the supply chain for Western Rock Lobster will make the compliance regime of any Domestic Reservation Scheme critical.

In response to a question in Parliament regarding restriction of inter-state trade and s92 of the Australian Constitution, Minister Kelly said "We have never guaranteed – I do not think we could ever guarantee, that not a single lobster would cross the border...".

Leaving the legality of trade restrictions aside and assuming for the sake of the argument that it is in fact legal to restrict trade, in the absence of an appropriately resourced compliance regime, a handful of enterprising traders will become very wealthy from the arbitrage opportunities created by a Domestic Reservation Scheme. This is particularly true if one of the objectives of the Scheme is to create lower prices in the WA market compared to the export market.

We implore WAG to commit to an increased investment in compliance to ensure any Domestic Reservation Scheme (if deemed legal) is successful against its objectives. WAG should be comfortable committing to such an investment if that commitment is based on a well-informed cost-benefit analysis. A well-informed cost benefit analysis can only come from an appropriate level of economic and market research.

Consultation

The timeline and process for designing the Domestic Reservation Scheme has been very short and there has been very little opportunity for stakeholders to have meaningful insight into any of the matters outlined herein. Indeed, to date there has been no ability for WRLC, GFC or other industry bodies to consult in a meaningful way with their membership because there is, as yet, no real substance to take to our stakeholders.

GFC strongly recommends that, as the details of the Domestic Reservation Scheme are developed, the Project Plan should allow sufficient time to consult with and gain feedback from all stakeholders.

CONCLUSION

As outlined above, GFC is committed to working in good faith with WAG and industry stakeholders to work through this complex issue.

GFC respectfully reminds WAG to remember the lessons learned from the earlier attempt to make wide-ranging, generational changes to this important fishery without proper consultation and due process. It is incumbent on us all, as custodians of the fishery, to ensure proper process is followed such that any changes only build upon the strength of the industry and don't undermine the strong position currently enjoyed by this wonderful fishery.

I look forward to your feedback following your meeting with DPIRD.

Yours faithfully,



Matt Rutter

Chief Executive Officer

Cc: Premier McGowan; Minister Kelly; GFC Board and Executive; WRLC Board; Matt Taylor; Fishing Families WA Committee; Ralph Addis; Heather Brayford; Graeme Baudains; Pia Dobson; Nathan Harrison; Mike Nahan; Mia Davies; Colin Tincknell; Diane Evers; Rick Mazza; Aaron Stonehouse.