

**Marine and Estuarine Recreational Charter  
Management Advisory Committee**

**FINAL MINUTES**

**2<sup>nd</sup> MEETING, 2/02  
9:30am, 23 October, 2002**

<p><b>Conference Room, Cronulla Fisheries Centre</b> 202 Nicholson Parade, Cronulla</p>
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## **Attendance**

### **Chair**

Dr Michael Sargent

### **Members**

Mr Peter Bolic  
Ms Margaret Dodson  
Mr Allan Ross  
Mr Peter Sayre  
Mr James (Jim) Lumb  
Ms Ann Garard  
Mr John Stevens  
Mr Keith Appleby  
Ms Barbara Radley  
Mr David Taylor  
Dr Maria Schreider

### **Representative**

Far North Coast  
Mid North Coast  
Central Coast  
Sydney  
Sydney  
Illawarra  
Mid South Coast  
Far South Coast  
Commercial Fishing  
Recreational Fishing  
Nature Conservation Council

### **Observers**

John Diplock, Principal Manager Recreational Fisheries  
Nick James, Manager Recreational Fisheries  
Susan Wildgoose, Fisheries Management Officer Recreational Fisheries

## **Business**

*Welcome by Chair*

*Apologies*

*Minutes of previous meeting*

The committee confirmed that the minutes are a true and accurate record of discussions at meeting 1 of MERCMAC.

*Business arising from the minutes*

Nil.

## **Agenda Items**

1. Update on the Fishery Management Strategy and Environmental Impact Statement process for recreational fishing and charter fishing activities
2. Licensing issues
  - review process update
  - charter fishing boat licence abeyance provisions
  - charter fishing boat exemption certificates
3. Charter boat monitoring program update
4. Proposal to list business contact details for licensed charter fishing boat operators on the NSW Fisheries website
5. Compliance report
6. Issues raised by industry
  - discussion on a code of conduct for ecologically sustainable charter fishing
  - programs funded by the recreational saltwater trust to benefit offshore anglers
  - consultation with NPWS re: tour operator discussion paper
  - interim licence holders - submission of third party review applications
7. Other business
  - Public Liability Insurance handout, for information
  - Out of session item – update

*Correspondence received*

Next meeting – to be determined (proposed for March/April 2002)

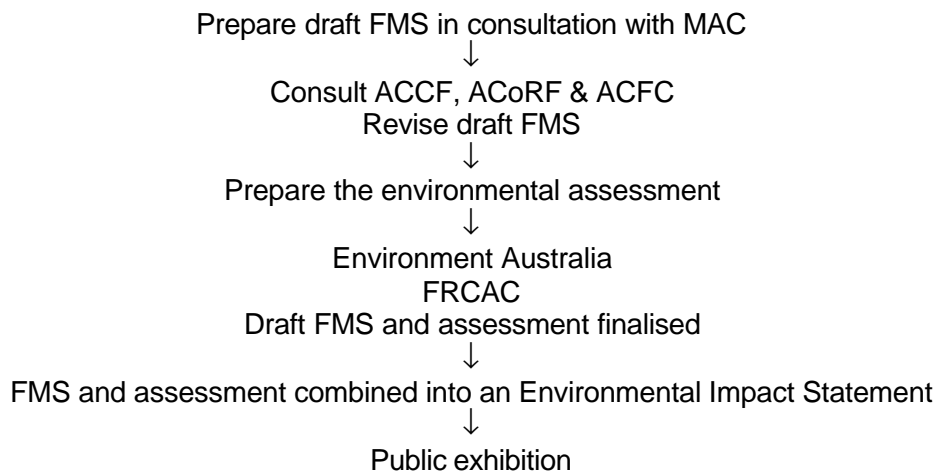
**Issue**  
Update on the Fishery Management Strategy and Environmental Impact Statement process for recreational fishing and charter fishing activities.

**Background (provided by NSW Fisheries)**  
The Management Planning team will outline the requirements and timeframe associated with the development of a Fishery Management Strategy and Environmental Impact Statement for recreational and charter fishing activities in NSW.

The purpose of the FMS is to identify issues relevant to the fishery and provide a plan of how these will be addressed. The Fisheries Management Strategy and Environmental Impact Statement for recreational and charter fishing must contain the following information (guidelines developed by Planning NSW):

- A – Executive summary
- B – Review of the fishery
- C – The FMS (like a proposal)
- D – Assessment of alternative management
- E – Impact on the fish stocks
- F – Impact on the environment
- G – Economic issues
- H – Social issues
- I – Justification for activity

The FMS/EIS process involves the following steps:



The FMS/EIS process cont...



The FMS and the environmental assessment combine together to make the EIS. After the environmental impacts of implementing the FMS have been considered, the FMS is further developed. The environmental assessment however, remains as it was at the public exhibition stage.

### Outcomes

The role of the committee during the FMS/EIS process was discussed. Specific details regarding the development of the FMS/EIS for recreational and charter fishing will be provided by the Management Planning team at the next meeting. The committee will be directly involved in any planning session(s) to commence the process.

Committee members will be given the opportunity to comment on the draft guidelines developed by Planning NSW. The revised guidelines would then be provided to the committee.

**Action item** – The chair requested that NSW Fisheries inform the committee out of session of the timeframe, scope and involvement of the committee during the development of the Fisheries Management Strategy/Environmental Impact Assessment for recreational and charter fishing.

**Action item** – The chair requested that the committee begin to identify and forward to NSW Fisheries the issues that should be considered during the FMS/EIS process. It was highlighted that it is particularly important to identify issues unique to charter fishing boat activities, to ensure they are included in the strategy.

A saltwater planning committee is being established to assist with the identification and consideration of issues to be addressed by the FMS/EIS. A copy of the planning committee expression of interest will be sent to committee members, when available.

### Recommendation

Presentation noted.

**Issue**

Licensing issues:

1. *Charter Fishing Boat Licensing/Review update*

**Background (provided by NSW Fisheries)**

A total of 330 applications for charter fishing boat licences have been received.

261 charter fishing boat licences have been issued to date (236 transferable and 25 non-transferable). 32 licences have been issued on an interim basis, pending final outcomes of the review panel.

- 251 Nearshore bottom fishing and sportfishing
- 241 Gamefishing
- 193 Deep sea bottom fishing
- 202 Estuary

75 interim licence review matters

- 20 transferable licences approved
- 17 non-transferable licences approved
- 6 applications withdrawn - licence surrendered/cancelled
- 32 applications pending

24 third party review matters

- 15 licences approved
- 1 licence surrendered/cancelled
- 8 applications pending
  
- 42 licences have been transferred (6 transferred more than once)
- 19 boats have been replaced

**Outcomes**

The licensing process was designed to be inclusive, to ensure genuine operators were not excluded from the industry. The committee acknowledged that the process has been inclusive, however, concern was expressed that charter boat licence applicants may have fabricated information to assist their claim for a licence. NSW Fisheries advised that the 3<sup>rd</sup> party review process was put in place for these situations. Ongoing issues can be considered on a case by case basis and dealt with through future management arrangements. The chair reiterated the importance of identifying industry management and growth issues, which will be included in the FMS/EIS process.

It was confirmed that a small number of late applications have been received. The committee re-iterated its position from meeting 1 that no late applications be accepted. NSW Fisheries confirmed that at present there is limited opportunity for people to lodge a late application.

Concern was expressed that charter fishing boats operating under an interim licence cannot be easily identified by other operators and the public, as the status of the licence has not been gazetted (as is the case once a transferable or non-transferable licence has been issued). It

was suggested that interim licence holders be required to display letters/numbers to clearly indicate the vessel is operating under an interim licence. This would remove uncertainty regarding the status of boats whilst under review.

**Action Item** – The committee requested that the department consider a policy for interim licence holders to display the appropriate charter fishing boat licence identification number on each vessel.

**Action item** – A request was made for Licensing to continue to advertise gazetted information regarding the issue of each licence on the NSW Fisheries website, as a way for operators to identify licensed boats.

**Recommendation**

The committee note the information presented.

**Issue**

Licensing issues:

*2. Charter Fishing Boat licence abeyance provisions*

**Background**

Abeyance provisions provide the opportunity for operators to place their licence “on the shelf” for a specified period while the licence is not being used. At the first meeting, MERCMAC’s views were sought on the following issues:

While there are no abeyance provisions, charter boat operators retain the right to hold a licence without paying fees. These operators benefit from industry funded long term management, compliance and research without contributing. Licence holders are presently able to maintain licences in abeyance for an indefinite period.

NSW Fisheries does not believe it is appropriate for latent effort licences to remain inactive for extended periods of time with the potential to benefit from the management costs paid by others and when reactivated, impact on the sustainability, viability and asset values of a well managed industry. Holding such licences especially where no fee is paid is speculative investment and undermines the intent of the current scheme.

A maximum abeyance period would be appropriate to overcome this issue.

The committee previously discussed the following issues:

- Not knowing when inactive licences are going to be used in the future makes it difficult to manage the industry and promotes uncertainty.
- Allowing licences to remain indefinitely in abeyance, whilst continuing to pay annual fees, may result in less administration and a lower impact on fish stocks.
- Clear abeyance provisions are a necessary means to control the use of abeyance by charter boat operators. Operators occasionally need to place licences in abeyance when vessels require maintenance or replacement. The MAC agreed that although six months may be a reasonable timeframe to prevent misuse of this licence status, two years could be necessary to allow legitimate operators to undertake maintenance, boat replacements or other such activities that would prevent them from operating.
- It may be necessary to make allowances for exceptional circumstances.
- Payment should continue throughout abeyance periods.
- A licence placed in abeyance for over two years should be cancelled.
- Another option is that no fees be required to be paid during the abeyance period but all fees must be paid prior to reactivating the licence. This is consistent with commercial fishery abeyance provisions.
- For licences that have never been active the abeyance period should start from the time of gazettal of the change to regulation or date of approval if the licence is currently under review.
- Before making a formal recommendation to the Minister on the nature of these provisions, the committee would like time to consult their constituents.

NSW Fisheries’ preferred position is that:

- Fees to apply to licences in abeyance. If a licence lapsed, all back fees would need to be paid before the licence could be renewed.

- A maximum abeyance period of two years – once a licence lapses, the regulations would prevent it being renewed after two years other than where the person sought an extension to the abeyance period for a maximum of six months.

### **Outcomes**

This topic was discussed at the recent port meetings. Many operators were not aware that an abeyance option is available to charter fishing boat licence holders, or that current abeyance arrangements do not require licence fees to be paid whilst the licence is inactive. Although there were no formal recommendations made, operators generally agreed with the intention of the proposed abeyance provisions, including the need for all operators to contribute to the cost of managing the charter fishing sector over time.

Peter Sayre requested it be documented that operators he has spoken to about this issue generally felt there should be a requirement to pay licence fees, but that there be no time limit on the period of abeyance. He believes that making operators activate their licence without using it will increase compliance costs and make the industry harder to manage.

The conservation representative suggested that an open-ended abeyance timeframe is not desirable, as it would be impossible to predict when latent effort will be activated. The commercial representative indicated that the reduction of latent effort has been a significant and ongoing issue in the commercial fishing industry.

The issue of latent effort will be considered during the FMS process, however, NSW Fisheries suggested that latent effort should not be encouraged. A structure and framework should be put in place to ensure that latent effort does not become embedded in the industry. The purpose of this industry is to take people charter fishing, not to speculate on licence value and put a licence into abeyance for an indefinite period. It was noted that the Licensing Policy provides a total grace period of up to 90 days following the expiry of a licence, which is also available to charter fishing boat operators.

The committee agreed that it is necessary for abeyance provisions to allow for extenuating circumstances, such as a boat replacement that is delayed beyond the control of the operator, or serious illness. The question was raised if there should be flexibility built into the procedure or whether extenuating circumstances should be considered on a case by case basis. It was agreed that discretion should be used on a case by case basis.

### **Recommendations**

The committee made the following recommendations regarding charter fishing boat licence abeyance provisions:

1. Abeyance provisions for charter fishing boat licences be restricted to a maximum of two years.
2. Appropriate fees must be paid during the abeyance period, or before the licence can be reactivated.
3. If licence fees are not paid in any circumstances within two years the licence will lapse.
4. Where extenuating circumstances are thought to exist the operator must apply to NSW Fisheries, before the end of the 2 year period, for the Minister to consider activating his legislative discretion to extend the period by a total maximum of 12 months.

## Agenda Item 2

## Industry

### Issue

Licensing issues:

#### *3. Charter Fishing Boat Exemption Certificates*

### Background

At the last meeting the committee requested summary information on the number of licensed charter fishing boats with exemption certificates and the number of anglers covered by exemption on these vessels. This information will be distributed at the meeting.

### Outcomes

This issue was raised due to representations from some operators who believed the cost of exemption certificates between small and large charter fishing boats (ie to exempt 4-10 anglers costs \$25 "per seat") was inequitable, whereas an exemption for 11+ anglers costs a total of \$250. Therefore, a charter fishing boat with an exemption certificate for, for example, 20 anglers only costs \$12.50 per seat. It was also mentioned that a requirement to pay per seat would assist in reducing latent effort.

There was some support expressed for a payment system of \$25 per seat. Another option mentioned was to increase the cost of all exemption certificates for 11+ people from \$250 to \$350, to differentiate between small and large boats.

Approximately 40% of exemption certificates held by charter fishing boat operators exempt up to 10 anglers at any one time. The remaining operators hold an exemption certificate for 11+ anglers. It was acknowledged that the majority of operators hold an exemption certificate for more than 10 people and therefore, would be unlikely to support a change to the current fee structure.

It was confirmed that it is the responsibility of individuals to have a recreational fishing licence. However, it is the responsibility of the charter fishing boat operator to ensure that the number of unlicensed anglers on board does not exceed the number permitted by the exemption certificate for that boat.

Following consideration of various options and input from NSW Fisheries, the committee agreed that the current system is working effectively and therefore should not be changed at this stage.

### Recommendation

The committee noted the information presented.

**Issue**

Charter boat monitoring program.

**Background**

Preliminary logbook data for the 2001 calendar year has been summarised and is attached for the committee's information.

NSW Fisheries would appreciate input from operators regarding future information.

**Outcomes**

NSW Fisheries advised that the draft preliminary data has only been provided to members for their information/ committee discussions at this stage and is not for further release/publication.

The committee was asked to provide feedback to NSW Fisheries on the quality/completeness of the figures, how data collection may be improved and information they would like to get out of the database over time. The committee identified the following information:

- Total catches for the 5 deep water species ie hapuka, bass groper, blue-eye trevalla, bar cod and gemfish.
- Passenger numbers/movements.
- Comparison of recreational, commercial and charter boat catches.

The conservation representative asked if the logbook could include a section to record observations of endangered species eg grey nurse sharks.

**Action item** – NSW Fisheries to consider options to streamline the current logbook system and provide feedback to the committee at the next meeting.

**Recommendation**

The committee noted the information presented.

**Issue**

Register of charter boat operators on the NSW Fisheries website.

**Background (provided by NSW Fisheries)**

As a means of promoting awareness of licensed charter fishing businesses throughout the state, NSW Fisheries is proposing to establish a register of charter boat operators on the NSW Fisheries website.

This information would assist prospective charter fishing clients by advising the general public of licensed charter fishing operations. The information would be useful to members of the Marine and Estuarine Recreational Charter Management Advisory Committee, to assist consultation between operators and regional representatives.

This issue was canvassed in a letter sent to licensed charter fishing boat operators in July 2002 and has also been discussed at the recent port meetings. NSW Fisheries proposes to send out a written request to licensed operators to gain the required approval. A regulation amendment may be necessary to allow specific business details to be advertised by NSW Fisheries.

**Outcomes**

NSW Fisheries will obtain permission from each operator to include their charter fishing boat business details on the NSW Fisheries website. Any operator that does not consent will be left off the register.

The register will work in conjunction with other educational material to advise anglers of the charter fishing businesses in each port and warn them against using unlicensed charter fishing boats. There was general agreement that business details be advertised alphabetically by port. The only concern raised with this proposal is the potential increase of junk mail, however, the benefits to the industry will outweigh this possible inconvenience.

NSW Fisheries will consider the possibility of including a photo of each licensed charter fishing boat on the register in the future.

The committee commended NSW Fisheries for this initiative.

**Recommendation**

The committee strongly supports this initiative.

**Issue**

Compliance report.

**Background (provided by NSW Fisheries)**

An overview of compliance issues and activities related to the charter fishing sector will be presented at the meeting.

**Outcomes**

Feedback on the boarding and inspecting policy document was positive. This policy is now in force and will be used by compliance staff when boarding charter fishing boats.

The committee asked why vessels have to be boarded at sea and what can be achieved at sea that cannot be achieved in port. It was clarified that this is a general compliance policy, which outlines the steps to be taken by officers and operators when boarding a charter fishing boat at any time, whether it be at sea or in port.

NSW Fisheries works with police and Waterways when necessary to assist compliance efforts. Targeted operations to investigate illegal operators are in place and will be ongoing. Operational plans have also been developed to specifically target locations identified as high risk areas. The aim of these plans is to maximise the potential of catching offenders in these high risk areas.

The representative for the Central Coast acknowledged the efforts of the compliance team to remove unlicensed charter fishing operators. The committee was provided with specific details of an unauthorised operator who was forced to stop conducting charter fishing trips, as a result of an investigation of the boat's activities. It was suggested that details of successful prosecutions should be advertised to the industry and general public.

**Action Item** – NSW Fisheries' compliance team to provide outcomes of prosecutions related to illegal charter boat activities, if appropriate, at future meetings.

Possible "grey areas" in the legislation, related to the scope of permitted charter fishing activities, have been identified. The process to investigate and address these issues has begun and will be ongoing.

The committee mentioned that it is often difficult to contact Fisheries Officers over the weekend to report illegal operations. Glenn Tritton provided mobile contact details to assist reporting.

**Recommendation**

Information noted by the MAC.

**Issue**

Issues raised by industry.

**Background (provided by MAC representatives)**

*1. Code of practice for ecological sustainable charter fishing*

Preliminary discussion of a proposal to introduce a charter fishing boat code of practice, with input from NSW Fisheries, is requested.

*2. Programs funded by the recreational saltwater trust to benefit offshore anglers*

An overview of proposed/supported programs that can be seen to benefit offshore anglers has been requested.

*3. Consultation with NPWS re: tour operator discussion paper*

An update regarding consultation between NSW Fisheries and National Parks has been requested on this issue.

*4. Interim licence holders – submission of third party review applications*

Operators that have recently been granted a charter fishing boat licence, who were the holder of an interim licence whilst under review and now possibly subject to a review by a third party, have approached committee members to request the right to lodge third party reviews against other parties, as they believe that they never had the right to do so.

*5. Committee members' contact details*

The provision of contact details has been requested to assist consultation among committee members.

**Background (provided by NSW Fisheries)**

*1. Code of practice for ecological sustainable charter fishing*

A code of practice for charter fishing activities may be incorporated into the Fisheries Management Strategy/Environmental Impact Statement for recreational and charter fishing. Copies of the Recfish Australia code of practice for recreational fishing will be distributed to committee members at the meeting, for information.

*2. Programs funded by the recreational saltwater trust to benefit offshore anglers*

(An overview of these projects will be provided at the meeting).

A Fish Aggregation Device program has commenced.

Funding has been provided for a review of the striped marlin fishery.

Funding has been provided for a major review of the bait fishery with a focus on blue mackerel.

There will be significant flow-on benefits from estuarine based program such the creation of recreational fishing havens, particularly for species such as bream and snapper that are also caught inshore/offshore.

*3. Consultation with NPWS re: tour operator discussion paper*

NSW Fisheries has held preliminary discussions with staff from the NPWS and the Marine Parks Authority to consider relevant licensing issues and ways to ensure cooperative management arrangements between agencies. A brief overview of these discussions will be provided at the meeting.

*4. Interim licence holders – submission of third party review applications*

If a transferable or non-transferable charter fishing boat licence is recommended, NSW Fisheries is required to advertise details of the relevant business, once the licence has been issued. These details are published as an Official Notice in the Government Gazette, in the relevant edition of the *Saturday Telegraph* (a statewide newspaper), and listed on the NSW Fisheries website, as well as in a letter to all operators each time a licence is issued. All members of the public, including charter fishing boat operators, have had the opportunity to lodge a third party review application at all times during the licensing and review process.

Copies of letters dated 6 August 2001 and 13 September 2002 will be distributed to confirm that all charter fishing boat operators, including interim licence holders, as well as any member of the general public, have been given the opportunity to submit third party review applications during the entire charter fishing boat licensing and review process.

*5. Committee member's contact details*

Contact details for members of the committee have been provided to all charter fishing boat operators in previous correspondence, to committee members at the first meeting and were available to operators at recent port meetings. A copy of these details will be distributed to members at the meeting.

**Outcomes**

*1. Code of practice for ecological sustainable charter fishing*

The committee considered the RecFish Australia National Code of Practice for Recreational and Sport Fishing. The aim of this proposal is to promote best practice across the NSW charter fishing industry. The committee agreed to use the RecFish code of practice as a starting point to develop a code of practice for ecological sustainable charter fishing.

**Action item** – The committee consider topics to be addressed by a charter fishing code of practice. These issues will be discussed further at the next meeting.

*2. Programs funded by the recreational saltwater trust to benefit offshore anglers*

A Fish Aggregation Device program has commenced. There is funding to construct and deploy 10 FADs along the NSW coast. 5 sites have been identified to date. Equipment has been ordered, based on the design proposed by the Byron Bay fishing club. NSW Fisheries expects to deploy 5 FADs by Christmas 2002. These devices will be aimed primarily at attracting dolphin fish (mahi mahi) and will be placed in areas that are accessible to small boats.

The committee suggested that NSW Fisheries consider a bag limit on dolphin fish during the next review of saltwater recreational fishing rules. The conservation representative suggested that the impact of FADs should be a research priority. Sub-surface FADs should be considered for high traffic areas. Tweed Heads and Wollongong were also identified as possible FAD locations.

Funding has been provided to review the economic benefit of striped marlin to the recreational and commercial sectors. This will ensure the Minister has all necessary information to make a recommendation to the Commonwealth Government regarding future management of this species.

Funding has been provided for a major review of the recreational bait fishery, with a focus on blue mackerel. This study has been driven by allocation/conflict issues and will provide an understanding of the recreational catch of slimy mackerel.

*3. Consultation with NPWS re: tour operator discussion paper*

NSW Fisheries is working with the NPWS and Marine Parks Authority to ensure common licensing arrangements are not duplicated, where possible.

The committee believes that because charter fishing boat operators have been assessed and authorised by NSW Fisheries, licensed operators should be issued a whale watching endorsement for no additional charge. Additionally, if a levy is introduced, industry representatives believe that a certificate of exemption should be made available to operators, similar to the recreational fishing licence exemption certificate.

**Motion** – MERCMAC write to the NPWS to request that licensed charter fishing boat operators be exempt from the whale watching assessment process – and to clarify whether a charter fishing boat carrying paying passengers that stops to observe whales will be required to be licensed, as opposed to a whale watching operation that relies solely on advertising for whale watching

Moved: Peter Sayre    Seconded: Allan Ross Carried.

*4. Interim licence holders – submission of third party review applications*

It was confirmed that all people have had the opportunity to lodge third party review applications throughout the charter boat licensing/review process.

*5. Committee member's contact details*

The contact list was distributed and updated.

**Recommendation**

The committee note the issues.

**Other business**

- *Public liability insurance handout, for information.*

The committee noted the information.

- *Out of session item – update.*

A proposal to amend the regulation, to provide the Charter Fishing Review Panel with greater discretion to consider certain issues and ensure all operators have the same opportunities with regards to the Administrative Decisions Tribunal process, was supported by members out of session. The regulation amendment is currently being drafted – members requested an opportunity to review the draft regulation, if possible, prior to gazettal.

**General discussion**

A request was made for the following items to be included on the Agenda for the next meeting:

- Logbook design
- Licence splitting – NSW Fisheries confirmed that this proposal is part of the broader issue of industry development. Decisions regarding industry development will be considered through the FMS/EIS process.

The following issues were raised:

- When redesigning the logbook, consideration should be given to include a field for operators to record encounters with protected species, for example, grey nurse sharks.
- Catch and release issues – there is evidence that a lot of fish do not survive catch and release practices. Research on the survival rates of caught and released fish (for the top twenty charter fishing species by numbers) should be included in the FMS. These studies should be large scale and also investigate mortality risks associated with post-release predation. The committee suggested that a boat limit be considered for deep sea species, to reduce catch and release related mortality of these species.
- Concern was expressed that the current legislation does not prevent a person leasing a non-transferable licence.
- Trawling around rocky reef areas – the committee requested that the impact of commercial fishing methods on reef habitat be considered during the FMS/EIS process for saltwater recreational and charter boat fishing.
- *Feedback from the Recreational Fishing Rights workshop*

The main topic discussed is the desire to have clearly defined recreational fishing rights in Commonwealth waters. NSW currently has this right but other states do not. The intention of the conference was to formalise each state's statute right to fish in Commonwealth waters. These defined rights would then form part of a total allowable catch (TAC) for recreational species in Commonwealth waters. There was general agreement that recreational fishing in Commonwealth waters will be managed by the relevant state, which would be expected to manage their fishery within the TAC for the Commonwealth fishery.

Suggestions on how this type of management structure may work included:

1. Tagging system – where states get a quota of tags;
2. A levy on certain species;

3. Licence – not well supported by states who have a licence as it would complicate current arrangements.

- *Budget information for the charter fishing boat sector*

Budget information for the charter fishing boat sector will be available to the committee in the near future.

**Next Meeting: Proposed for April 2003**