



# **HOUSE OF REPRESENTATIVES**

## **STANDING COMMITTEE ON PRIMARY INDUSTRIES, RESOURCES AND RURAL AND REGIONAL AFFAIRS**

**Reference: Management of Commonwealth fisheries**

**HOBART**

**Tuesday, 24 September 1996**

**OFFICIAL HANSARD REPORT**

**CANBERRA**

HOUSE OF REPRESENTATIVES  
STANDING COMMITTEE ON PRIMARY INDUSTRIES, RESOURCES  
AND RURAL AND REGIONAL AFFAIRS

Members

Mrs Bailey (Chair)  
Mr Adams (Deputy Chair)

Mr Andren	Mr Fitzgibbon
Mr Bob Baldwin	Mrs Gash
Mr Broadbent	Mr Leo McLeay
Mr Causley	Mr Nairn
Mr Cobb	Mrs Stone
Mr Crean	Mr Wakelin

Matters arising from Audit Report No. 32 1995-96 Commonwealth Fisheries Management: Australian Fisheries Management Authority.

**WITNESSES**

<b>BAILEY, Mr Brian Kenneth, 64 Ormond Street, Bellerive, Tasmania 7018</b> .....	<b>69</b>
<b>BRINKMAN, Mr Norman, Managing Director, Fish Pak Pty Ltd, 92 Mornington Road, Mornington, Tasmania 7018</b> .....	<b>91</b>
<b>LADE, Mrs Debra Maree, 6 Florence Street, Bridport, Tasmania 7262</b> .....	<b>81</b>
<b>LADE, Mr Dean Francis, 6 Florence Street, Bridport, Tasmania 7262</b> .....	<b>81</b>
<b>SCHAAP, Mr Alexander Harold, Acting General Manager, Marine Resources, Department of Primary Industry and Fisheries, GPO Box 192B, Hobart, Tasmania, 7001</b> .....	<b>101</b>

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Tuesday, 24 September 1996

Mr Adams (Acting Chair)

Mr Andren

Mr Nairn

Mrs Bailey

Mrs Stone

Mr Leo McLeay

The committee met at 8.32 a.m.

Mr Adams took the chair.

**ACTING CHAIR (Mr Adams)**—I declare open this public hearing of the inquiry by the Standing Committee on Primary Industries, Resources and Rural and Regional Affairs into the management of Commonwealth fisheries. I will be chairing the hearing today, in the absence of committee chairman Michael Ronaldson.

I inform witnesses that the committee's proceedings are recognised as proceedings of the parliament and warrant the same respect as proceedings of the House of Representatives demand. Witnesses are protected by parliamentary privilege in respect of the evidence they give before the committee. Witnesses will not be asked to take an oath or to make an affirmation. However, they are reminded that false evidence given to a parliamentary committee may be regarded as a contempt of the parliament.

The committee prefers that all evidence be given in public but, should witnesses at any stage wish to give evidence in private, they may ask to do so and the committee will give consideration to the request.

**BAILEY, Mr Brian Kenneth, 64 Ormond Street, Bellerive, Tasmania 7018**

**ACTING CHAIR**—Welcome to the committee, Mr Bailey. You have been a fisherman for 40 years, I understand.

**Mr Bailey**—Yes. It was 40 years one month ago today.

**ACTING CHAIR**—Would you like to make a statement before we begin our questions?

**Mr Bailey**—I want to concentrate on shark fishing. Have you been given much build-up or background on the shark fishery?

**ACTING CHAIR**—We have received a summary of information about the southern shark fishery—about the status of the fishery, the gummy sharks and school sharks which run together. One is down and one is okay—there is a connection between the two. The evidence we have received is that, because both are susceptible to similar catch methods, it is difficult to take one without catching the other.

We also know that the commercial value of the fishery in 1994 was \$15 million. In addition, we have received some information in relation to nets and changing the type of nets used. We are not totally ignorant about the shark fishery, but we would value your expertise in the area.

**Mr Bailey**—I asked you how much you knew because I was not sure how far back I should go in order to make you reasonably aware of the situation. The shark fishery extends to three states—South Australia, Victoria and Tasmania. I will outline the situation in the past 12 years or so.

Management first started with the AFS, which was a very bureaucratic organisation. I will not labour that point—suffice to say it was a failure. The gear cuts we took in the first instance cut ourselves in half to what we used to use, believing that, okay, the scientists must be right. All we have done since then is take cuts and cuts and more cuts. How we maintain our viability has got me bugged. But we are still effective. We are still efficient. We are still paying the bills. We are still taking all these major cuts. So our expertise must be getting better or something. But we have not really achieved a damned thing, except to make our life harder. The bills are bigger and our input fees are larger. That was all under the AFS system. Then along comes AFMA.

AFMA is a bit better system than what we had. It is not perfect. It has got a long way to go before I think it could be fully representative of the fishermen. A lot of people missed out because of the paperwork. The paperwork out of these bodies is phenomenal. I use, just myself, in the shark fishery a roll and a half of fax paper every month—just on shark. I have to look to find if there is anything personal in amongst it all.

We are fishermen, and we are multiskilled people, but we are not academics, and we have been bombarded with this academic—I do not know what the rights words are for it. It is just the paperwork. We should not have any trouble in the fishery because we would never have time to go fishing if we read it all. Probably the bits that we do not read are the bits that get us into trouble. We miss the game plan or whatever.

We have a system in the fishery of categories. They are called AA, A and B. I think that is bullshit to start with, if you do not mind my French, ladies.

**ACTING CHAIR**—Would you just describe what AA, A and B mean.

**Mr Bailey**—In the first instance in the fisheries we cut ourselves back to a certain number of nets—six nets—and there was a period when, if you were a gambler, you would go and borrow a heap of money or, if you had the money, you would buy another licence and put it together with a reduction, and you ended up with 10 nets. An AA has 10 nets, an ordinary A has six and a B can be anything from two nets to five. He was allowed in, the belief was, on the basis that he was part-time. He did not meet the full access criteria, but it did give him access to keep fishing.

All that this categorisation is doing is keeping industry divided. We cannot come to any common resolve at all because the AA thinks he owns the industry. The ordinary A category is still just a fisherman. He is still fishing. He is doing it harder than the others, but he is doing it. The AAs want the B gone. He was only allowed in because he had a couple of kilos, which were the common words.

Most of those Bs—and I talk for the Tasmanian guys—were the shark fishermen. At the time when all this licence nonsense came in, the scallop industry was very good. I was one. I was lucky to make it. Just because we had one hot summer, I made the category myself. It was too hot to catch scallops and to carry them the distance, so I went sharking. I would never have made it. My life has been sharking. So this is how a lot of people got disadvantaged.

**ACTING CHAIR**—So you received quota on what you caught for that summer?

**Mr Bailey**—Yes. I got my access for what I caught that summer.

**Mrs STONE**—Are you an AA, an A or a B?

**Mr Bailey**—I am an A. Just to explain to you why I am still an A, I was financially viable at the time of this amalgamation to buy it and, not being an educated person, I had a good accountant and a good lawyer. My lawyer was Bill Zeeman, and most of you have probably heard of Bill. So I had damn good advice. He looked at the plan. He said, 'Man, you have got to be silly if you spend \$150,000 on this.' I was not going to argue with the man. He had always done me right and so I did not go into it. A lot of people did. Now the people that did feel they own the fish and it is disadvantaging everybody else.

The simple thing I want to get across to you is that you should eliminate that discriminatory tag of AA, A and B. We all have so many units. The AAs have 10; I have six; the Bs have from two to five. If we were unit holders, we would go somewhere that quick, you know. I have played a major role in all parts of the fisheries management and industry, and it has held us back, always. But AFMA does not want to listen to it because the power broker is the AA and he is a better lobbyist—or at least he is better than us normal guys at it.

We seem to be stuck with this tag and we cannot get rid of it. If we could get rid of it, the

management would flow more equitably between industry. Those tags of AA, A and B keep industry divided. There are so many units—you cannot do any more than have those units. I am not able to eliminate the tag. AFMA has deaf ears for some reason. Is there anything you want to ask on that line before I move off into another area?

**ACTING CHAIR**—Is there anything else you would like to say and then we will come back?

**Mr Bailey**—Under all this consultation with AFMA, the long-liners—the blokes that use lines and hooks—have missed out considerably. They have had no representation. Consultation has been very low. I feel that if anybody needs a smack on the fingers, AFMA does for this one. It is one of the bad ones. We have a few long-liners in Tassie and they have been very greatly disadvantaged as far as gear allocation to nets—that is a big disadvantage—but their representation is disadvantaged in that there is nobody who has ever been on the management committee representing the long-line groups.

Only this year on the management committee, has there been anybody from the B sector. It happened a few months ago and now we have a South Australian chappie. That is good. It is getting a little better. But the long-liners are definitely disadvantaged. And we have these in the three states—a very small minority of them, but they are still fishermen and they earn their living as fishing people.

I will touch on the school shark now. The assessment process of the school shark is totally flawed. Actually, I will just hold that and I will go to the gummy shark first, because that will make it clearer. The assessment process for the gummy shark has proven to be very correct. It seems to be good scientific work and industry work, and the outcomes seem to be pretty good. But the gummy shark is a resident and regional stocker fish. It does not travel in great abundance right around the world.

The school shark assessment to me is totally flawed because they are pelagic species, they are not a demersal species like the gummy shark; they are not a regional stock. And there is not one man of us alive who works in this fishery that knows where they go for nine months of the year. I have been there for 40 years and it has been one of my biggest concerns. If I knew where they went, I could make a quid when the winter was a bit lean. But we have never been able to nail it.

We see them when they have the little egg, when they are first pregnant—the ladies—but we never see them until they are ready to drop their pup, and that is a five- or six-month period. So they have got a good hide-out somewhere. We do not know enough about them. I say the school shark assessment is flawed. I am on the assessment committee too, worse luck, because nobody seems to want to listen to the fact that they are a pelagic species. These same species are in New Zealand. We know that to be 100 per cent correct.

I believe they are in Argentina and South Africa and everywhere else right round this latitude. Until we can get the scientists to look down that avenue, we are still going to be guessing.

As I said, the gummy assessments worked well because we know they are regional stock. We know they do not belong to New Zealand or Argentina or places like that. They belong to the southern coastlines of Australia here.



But the school shark, we do not know where they belong. We need more work: all these archival tags will give the scientists more knowledge. Those things come back to money—dollars and cents. I think there has been a bit of a grant allocated to do some preliminaries there. Let us hope that follows on, but at the moment what we are getting is all this knee-jerk reaction about restrictions in the school shark fishery. I am not confident with it and I think that it is all guesstimate because of the fact that we do not have the relevant information on a pelagic species.

**ACTING CHAIR**—Did they do a status update in April this year?

**Mr Bailey**—Yes. They did the updated assessment and then brought some expert from America, De Suro or somebody like that, to validate the update. But, with due respect to the man they brought from America, he only looked at the information he had put in front of him. He can only go on that and he is a statistician. The outcome is only as good as the information given. I just say it one more time, we cannot have proper information because we do not know where the species come from. We do not know what other user groups are in on them. New Zealand does not catch a lot of shark now under their management regime, but they do catch some. School shark are over there. We know in the Argentina and Chile areas they are catching thousands and thousands of tons of this type of species. I have seen photos. I have seen newsreels of them. They look identical. I have not physically touched and seen the fish or looked in his mouth or anything like that yet. I have plans to do that myself, but what I have seen from the photos of these school sharks from South Africa, they look identical. Whether the genetics are the same I do not know, but to me at this very moment it confirms the idea that they live right around this latitude.

**ACTING CHAIR**—Is there anything else, Mr Bailey? I think there are a few questions that—

**Mr Bailey**—One major thing and that is transferability. A lot of us are getting a bit older. There are a few years left in me; I am not the one who is so concerned about it. But there are a few guys in the industry that want to sell out and we have been under a restrictive trade system for about 10 years now.

**ACTING CHAIR**—What restriction holds you back?

**Mr Bailey**—We cannot sell our licence packages.

**ACTING CHAIR**—Under legislation or under the—

**Mr Bailey**—Under legislation or under the policies of our old management plan. There are people who need to get out. There are people who need to upgrade. I need to upgrade and we are disadvantaged in Tasmania by fish price. We get two dollars a kilogram less than our counterparts in Victoria. I do not want to keep working as hard as I do. I want to do it a bit easier. If I can purchase another licence and have a redundancy side which in the previous system was legal and have 10 nets or 10 units I can be more efficient. I can reduce 25 per cent of my effort and still have the same income to service my investment. I have got an investment of a million and a half dollars tied to the wharf.

At the moment I can service it, but I am working 180 days at sea a year and spend the rest of them sitting in maintenance. I want to cut that back a little bit and I do not mind spending money to do it. I am

not after gifts and a lot of us are not.

Then there are chappies that need to retire—change their lifestyles for health reasons or whatever. We are locked into this non-transferability. The ones that are in companies can transfer; a lot of people are saying that it is illegal to transfer. It is not illegal. They are not transferring the licence. They are transferring the company and its assets. It is legal.

**ACTING CHAIR**—Legal to—

**Mr Bailey**—It is legal do that.

**ACTING CHAIR**—To sell a company?

**Mr Bailey**—Yes. You are not selling the licences, you are selling the company and you are buying the company's assets. I cannot buy a company's licences or the assets of the company that holds a fishing package because I cannot put it together with mine. So we are disadvantaged, a few of us. About 20 per cent of us are disadvantaged in this light in the three states.

We need transferability. We thought we had transferability in February this year and then we got kicked in the face by AFMA who said, 'No, it won't be until July 1997'. Now it is going to be January 1998. We went right through and worked out a mechanism. We put days and weeks to the industry council and guys into it. It does not matter which way we go practically. I say this is totally restrictive trade. It has got to be flawed, it has got to be wrong under our legal trade system somehow.

The other thing is cheap imports. I think the committee should, somewhere along the line, do something. I do not know what government departments handle this but we cannot seem to get AFMA to do anything. We get that much cheap imports dropped from Taiwan. The poor buggers only get fed a bowl of rice or something over there. We are getting this cheap stuff coming onto our markets at four bucks a kilo in fillets. It is rubbish, but the Greeks being what they are—they are out to make money—they cover it in batter. You do not know what you are eating. It is affecting us in Tasmania in a very big way.

I believe—although I have no proof—there is a guy in Launceston importing bodies from Chile by the container load and he is getting them for \$1.30 a kilo. I say 'I believe'. It is closed doors to me because when I go snooping they say, 'Oh, geez, don't show him.' This is happening. This is affecting our marketing and this is affecting our profitability.

We all have a very good standard of boats in Tasmania and in most of the other states as well. We service them well but if the price we are getting for our product keeps getting pushed down, we can only put so much time in and our asset is not going to be maintained and serviced. It will then start to deteriorate. These are some of our biggest fears. We are fishermen because we love our boats, they are part of us. We like to have proper, maintained gear and everything. It is what we have worked for. When we have had the freedom to work and to have what we want, we want to maintain it and if we keep getting overcharged from this end, there is nothing left to service our asset.

This drop out and reduction in mesh size is ludicrous. If it is looked at as conservation, there is only one conservation with mesh size, it has got to get bigger so the fish can swim through. If it gets smaller, he cannot swim through. I have not seen a fish with a reverse gear in my life.

**ACTING CHAIR**—Is not the argument to release the bigger fish?

**Mr Bailey**—That sounds nice but it is absolute nonsense. I do not know who invented it. I will give him a pat on the back because he sold it well, but it is nonsense. A school shark has got a reasonably pointed nose and he is about an inch wide across the top and he comes back like that. A gummy shark has got a bull head. Maybe, I concede, he can bounce off occasionally because he will not mesh but a school shark will mesh in a three-inch mesh. He is a fish, he dies instantly. He frets. He is not as robust, he will not last like a gummy shark. A gummy shark is a tough animal. Chuck him in a well of a cray boat and he will still be alive six months later. After you have put in five or six different loads of crays he will still be alive. He is unreal. With a school shark, put him in the well of a boat and he is dead within three-quarters of an hour, and that is even without him being sick or damaged or anything.

I know how this first raised its head. It was a mechanism to take the view off an over-fished area in South Australia. What seems to happen to the fishing industry is that a story pops its head here to cloud the facts and another story pops its head to cloud the facts over there. The facts are: if this is devised for conservation, there is only one conservation measure in fishing with nets. Gauntlet fishing is one of these new fancy terms. Okay, in Victoria the gummies are running the gauntlet with those little nets for sure, because bang, he is out of one and there is another set there. There are quite a lot of boats. But with the mesh size, if it is for conservation reasons, it has to be bigger so the fish can get through that bloody hole and go on and breed further. Our net sizes are too small. We are killing two-thirds of our fish before the ladies get a chance to breed. So if conservation is the reason, we have to increase mesh size, not decrease it.

I could elaborate for an hour on this but we are running out of time. I could draw you pictures and prove my point or I could bring you a couple of shark heads and a hunk of net and show you. It is nonsense. But they do not want me to do that practical demonstration at these meetings. If you are going to go for conservation of the stock you cannot do it by reducing your mesh size. You can pick up any magazine, such as *World Fisheries* or any of them, from any country in the world in the trawl business, and you find that they conserve their industry by increasing the mesh size in the bag. That is the whole thing.

**ACTING CHAIR**—So the school fish will go into any mesh—

**Mr Bailey**—School shark, yes. A gummy shark has that distinctive shaped head, and the bigger he gets the more bull like the head gets. When he is a baby he is a bit pointier. A school shark's head is about an inch wide right at the point—and I am talking of fish three feet long. School shark are in different size categories. But as he gets bigger, that piece at the point of his head does not get wider, because it grows out and it grows back, and he just goes straight into the mesh. Imagine a diamond of mesh—he just goes straight into it. He cannot go backwards, and he is an animal that frets.

**ACTING CHAIR**—Mr Bailey, I am sure my committee have some questions they would like to ask you.

**Mrs STONE**—You mentioned that you wished to get rid of the AA, A and B categories because you felt there was a discriminatory set-up with those in place. What do you propose instead—that you simply have people recognised according to what you said was unit size? Is it just an image thing you are concerned about with the AA, A and B, or is there something else attached to those categories that concerns you?

**Mr Bailey**—That is a good question. An image thing is probably the best way to say what it is. The image is discriminatory as used by the AAs in relation to the minor categories. I am not an AA, I am an A. I can fish as good as any of those with half that gear, but it is my years of knowledge that beats them. The Bs have lower lengths of gear and the AAs' mentality to them is, 'You are not supposed to be here.' They want to persecute those little guys. It is the big bloke trying to grind the little fellow into the ground. The little bloke does not cause any trouble. He needs that to raise his family and keep his lifestyle going. It is persecution by the AAs of the Bs.

**Mrs STONE**—Are the different categories allowed a different range of gear?

**Mr Bailey**—Yes. The gear size sets the shark nets of various sizes. The Bs have between two and five units—each unit is a net 420 metres long. The AAs have 10 units. The single As, like myself, have six units. Every time there is talk of cutbacks for management or conservation or for scientific purposes it is those little blokes they want to kill all the time. I have seen it, I have felt it and I have experienced it since we have had these categories. If the categories go we are still going to have the same number of units—we are not increasing any effort, we are not putting more units into the industry, we are not doing anything except eliminating a bunch of words off the top so that everybody becomes unit holders.

Let us hope we can get transferability and amalgamate up to what our individual wants are—but you are still only going to grab units to do it. For example, if I wanted to build up—which I do—to a 10-unit to be more effective, I would have to buy four units from somewhere. We are not doing anything to the fishery. All we are doing is eliminating a barrier that has split industry; we have kept industry apart. I get really chafed off in that I was one of the slower ones to realise what was happening to us with the smart ones devising all these mickey mouse plans to keep the real fisherman out.

The real fisherman is not a 'go to meetings' man; he is not interested in all the paperwork. I would say that out of 80-odd Tasmanian licensed shark fishermen—that is state and Commonwealth—nine out of 10 would not read any further than the front page of whatever they are sent on shark. They are real fishermen. Let the fishermen be unit holders and work better together for the value of the industry.

**Mr NAIRN**—With that non-transferable situation, if tomorrow for whatever personal reason you just had to get out of the industry you would just have to walk away and could not do anything with your licence. Is that the current situation?

**Mr Bailey**—No. I hear what you are saying. There have been health circumstances in South Australia—a chappie with a heart attack who then could not go back to work. Then a chap died over there, as well. We have not had this problem in Tasmania yet. AFMA, in consultation with some part of the industry—I have never been involved with any of them—have allowed the family to sell the licence or transfer it. Yes, there is a compassionate bit in there that AFMA allows and that the family can't be left with

a vessel and gear and nowhere to work. There is one thing, though, I should say to be fair. If it happened to me I can transfer straight to my son. I can transfer straight to my son, that is all. But you cannot buy in and you cannot—

**Mr NAIRN**—I could not buy it from you?

**Mr Bailey**—No. The only way you could buy it off me would be if no member of my family was a fisherperson at all, to follow me. If I was sick or dropped dead, yes, you could become a buyer, but they would set up a system that you sold as.

**Mr NAIRN**—Just to go back to the original licences, we have had evidence in a number of the fisheries on the problems of introduction of quotas, where quota systems have been used. There seems to be a bit of a pattern that the way in which these things were worked out has caused problems in just about every fishery. Can you just explain how they allocated those? I know you said it briefly, saying that you were lucky that you did actually catch some shark in the year before. But was it taken over a series of years, or what?

**Mr Bailey**—It was taken over three years. I think the years were 1982, 1983 and 1984; I would stand corrected on the dates, it is a while ago now. To make an A a full-time licence package, as they called it, at the time you had to have 45 tonnes over those three years. You could have so many in one year, so many in the other and so many in the other as long as you made 45 tonnes. In two of those years, myself personally I did not fish. The scallops were magic and the weather was not over hot. One year it came in a screaming hot summer; that was 1983. That was a hot summer. We brought a load of fish home and by gee, the time we got 15 hours home from where we were they were not smelling too good. We lost about half them. I took the scallop gear off instantly and put the shark gear on, and I had 60-odd tonnes for that next two months. That was the only way I made it.

**Mr NAIRN**—So 45 tonnes was for an A-licence. What was it for an AA?

**Mr Bailey**—It was a real funny one. I have never sussed it right out. Some people got two licences. They laid a hunk of timber called a keel of a wooden boat or a piece of plate of steel in their yard; they already had a shark boat. It was under the cutbacks. They were the smarter ones. I had two boats—I was building two boats at the time—and I was a dumb one, I missed out! The thing is that some got two licences.

**ACTING CHAIR**—And you do not know how they got two licences?

**Mr Bailey**—The only way I know was that they had what was called an investment—a prior commitment, an investment or something of that nature.

**ACTING CHAIR**—So they had committed to building a boat or something of that nature?

**Mr Bailey**—Yes. I know of one person—and I will not mention names; I have already argued with lots of these people privately on it—who had an old shark reel and he had never even owned it, but he got a licence. There are always these scams in everything. We cannot go back; it has happened.

**Mr NAIRN**—So the two licences could then be amalgamated to one AA?

**Mr Bailey**—This has happened with a lot of fishing packages. They had two licences given to them in the beginning and they have been amalgamated and called AA. But then you have a lot of the other people who went out and spent money. South Australians bought about 15 licences in the first year. They bought most of Tasmania's effort, and Victorians bought Tasmania's effort. There were quite a few and I guess I would say there are about 10 that I know of that got two licences in the beginning and amalgamated. The rest of the amalgamated packages are people that have bought them.

**Mr ANDREN**—I am just wondering whether this AA problem can be overcome by adopting quota controls on catch. Do you see that as better?

**Mr Bailey**—It probably will if we end up down the line of quota. That will be another great fight, will it not—how are we going to allocate and everything? So it goes on. It was 1978 when I went to the first shark meeting in San Remo; we still have not gone very far. A lot of people say, 'Oh yes, we have' and we have. We have made a lot of trouble in relation to a lot of people. We have made a lot of people's lives very unhappy. We have taken away their lifestyle, and the fisherman's lifestyle is something to be envied. We could earn a living, raise a family and have a lifestyle. But there is no lifestyle in fishing now. It is worse than going to the office.

**ACTING CHAIR**—It is a bit like the family farm.

**Mr Bailey**—I tell you what, we are very similar. We get no credit for it but we are the last of the multiskilled people in this country.

**Mr ANDREN**—Just to follow up, given that quotas may be adopted, we have information to suggest that the shark biomass, the school shark, has been reduced to 10 to 25 per cent of initial levels. Now you are saying that no-one knows what the biomass is. Is that as I understand it?

**Mr Bailey**—Can I put it this way? I cannot argue whether they are down to initial levels. What I will argue is: how do we know what the first levels were? That is the question. Information coming out is only as good as what you put in. How do we know what that level is? We know that the fish are not as thick as they used to be. We know all that. We know that there are still big heaps of fish coming through and everything, but we know they are not as good as they used to be.

But there are so many other elements. We have a trawler industry we never had in the years when we first started doing statistics. I will give you one instance of the situation 40 miles south-east of Hobart. If I am there gillnetting for shark and one of these big trawlers goes through, I might as well come home and put the gear back because I will not catch one damn fish, they go so fast. School shark are timid, they frighten very easily and they go like the clappers. I would like to know how fast they go because, when you release one over the side, you cannot believe it. It is just like he has vanished, he goes so quickly.

**Mrs BAILEY**—Mr Bailey, you said in your opening statement that you did not think that AFMA was representative of fishermen like you. Is that because you are not having the time to go through a lot of the

paperwork and you are unable to keep up with the changes, or do you think it is because of the actual structure of AFMA itself?

**Mr Bailey**—I suppose I used the phrase ‘like me.’ I force myself into these things now. There is no door if it is on any part of fishing that I am involved in—I force myself in. I have to, to protect my investment. I suppose, trying to clarify what I meant, that there are still a lot of people out there who are fishermen. They are not ‘go to meetings’ people and they do not want to be reading reams and reams of paper. They want a fair deal.

We have got a meeting later this week and we will try to get people along from the shark fishery to tell them what is happening. You can see that after the first hour of a meeting, after different people have been handling different areas and explaining things, their heads go down and they are thinking, ‘Oh God, not more trouble!’ And that is all it appears to be: trouble, trouble! It is hard; I feel what I want to say, but I cannot get it into the right words. We are a way of life people; we are not meeting-goers. I force myself into it now; I will not stand back. But I have got a lot of catching up to do, too. A lot of the reason that some of us are fishermen is that we were not too good at school, either; but, by gee, we are good workers. That is what this country is short of: blokes like us who will still bend their backs and use their hands. I can feel it better than I can explain it.

**Mrs BAILEY**—Are there any changes that you could suggest whereby you could get better representation?

**Mr Bailey**—Yes. The MAC has been making quite a lot of changes in the past 12 months—the shark MAC has, anyway; I will not talk for any other fishery sector. Having the MAC meetings in various ports has helped, to a certain extent. But, again, it clouds the issue. If you go to a strong port like Lakes Entrance, where fishing is that town’s backbone, the MAC comes along and the pressure is so great that it sways it away from being a unified sort of thing. The Lakes Entrance meeting was where the B operators were trying to have their say. Man! I think I would have probably given somebody a smack in the ear if I had been a B operator, with some of the treatment they got. It got very volatile, and that should not happen, because we are there for one reason: survival of the species.

Without the survival of the species, we do not survive; and so we have got to pool our knowledge to work out the best basis. We are the people with the knowledge, and not the scientists: they only put into the fancy paperwork what they learn from us. If they get good grants and end up out at sea, they are still only learning from us. Somehow or other we have got to have a collective business so that we can all get together. This is the shark industry council that a couple of us put together, to try and get it all together instead of all pulling and pushing apart. That has been eroded on us now, because some bloody fool a month or two ago said, ‘Oh well, all the MAC members are automatic members.’ The shark industry council should not be anything to do with the damn management committee. That is industry: Tasmania, South Australia and Victoria in that industry are putting in who they want there to represent them, because these MACs are not representative.

I am on the shark MAC. I got put on this year, because they say that I have got expertise that is of value to the MAC. I am a bit in the old-fashioned way. I believe that a person should have been put on there

because he has got the expertise in his fishery, but he should have been put on there to represent the fishermen where he comes from, and that is the downfall that I see. Too many people on there are saying, 'Oh well, I am looking after myself.' The point is that, in Tasmania, we have got the cray fisherman with 200 hooks. Now this shark fishery used to belong to the cray fishermen, years ago, and I was one of them. It is divided into separate industries now.

The cray fishermen, under their OCS, have 200 hooks. When you think of the trouble those 200 hooks cause amongst shark management, it is astronomical. There are probably only five people out of those 300 that work those 200 hooks. I work amongst them every day of my life around the west coast, east and to the north, and they do not cause a bit of trouble. But the trouble that comes as far as shark management goes—out of the AA sector again—gets rid of anybody. They do not cause any problem: they are the real good guys; it is nice to know we have got solid people like that in the community! I am being facetious again.

**ACTING CHAIR**—Mr Bailey, we have got to move on, as time is catching up with us. Thank you very much for that. You can look forward to our report some time in the future, possibly in March next year. Thank you very much for your evidence here today.



[9.11 a.m.]

**LADE, Mr Dean Francis, 6 Florence Street, Bridport, Tasmania 7262**

**LADE, Mrs Debra Maree, 6 Florence Street, Bridport, Tasmania 7262**

**ACTING CHAIR**—Welcome. In what capacity are you appearing here today?

**Mrs Lade**—As private citizens.

**ACTING CHAIR**—We have received a submission from you and we have authorised it to be published. Are there any changes to that submission?

**Mrs Lade**—No.

**ACTING CHAIR**—Would you like to make a statement before we ask you a question or two on your submission?

**Mrs Lade**—I have just a few key points that I feel need to be said. I feel it was an unfair ruling on one's career investment and a lifetime. Mr husband's apprenticeship was achieved. He bought the licence only to be very disadvantaged. I feel that his 21 years in the shark industry count for nothing, and he is a third generation fisherman with the potential for a fourth and more coming on. We also create employment opportunities for the willing work force. When the criteria were set up for the hooks, there was no hook representative having a say in an official capacity at all on the committee. There was no shark association to turn to to represent the hook fishermen at the time, and it is too late now, they say.

I feel there was no consideration given to the full-time 100 per cent dependent wholly and solely shark fisherman, regardless of the catch history that he had. Every new stipulation and regulation AFMA imposed on the shark fisherman is another dead shark, in my book. Shark fishermen are asked to do their part to participate, to conserve fish stocks, but how can we do that when all these regulations have been put onto us? Fees are lifted, so therefore you have to work harder, so that means more dead shark, and they are saying we have got to cut down on our shark catches. That is mostly on the shark side of it.

There are a couple of points that I would just like to make that I have had happen to me in the last couple of months, and these concern the licensing department of AFMA. I feel they use intimidation to retrieve their fees if you are a few days late. We were a few days late paying our scallop licence and it was \$2,200 for the year. It was to be paid in two instalments, one in June and one in November. Anyway, we were a few days late for the June one and I rang up and explained that where we come from the post can be very unreliable. I had been away to a shark meeting in Melbourne and it was just circumstances. I said that we were not actually using the licence, we were just holding it and paying our fee. She said, 'What do you want it for, then?' I feel that is really none of their business. If we do not want to fish with it, that is our business.

You also get no credit or recognition for just paying your licence to maintain your access right. There is also no stipulation written down to say that that licence must be used. The licence, I feel, is contributing to

management for the other fishermen, but we are also conserving the stocks if we are not fishing that licence. And that is about all that I have got to say.

**ACTING CHAIR**—You are a hook fishermen?

**Mrs Lade**—Yes. Or my husband is.

**ACTING CHAIR**—You do not use nets, you use hooks. How many hook fishermen are there in the shark fishery in Tasmania or within the fishery?

**Mrs Lade**—There are very few. About 20 per cent of the shark fishery are hook fishermen.

**ACTING CHAIR**—And do you fish a thousand hooks?

**Mrs Lade**—Yes, we have a thousand-hook licence.

**ACTING CHAIR**—And where do you land your fish if you are catching shark?

**Mrs Lade**—We land our fish at Bridport.

**ACTING CHAIR**—Are they processed there?

**Mrs Lade**—No, they are processed at George Town. Actually, our processor flies them straight to the mainland.

**ACTING CHAIR**—You fish in several fisheries. Do you take scallops as well?

**Mrs Lade**—No, but we have a scallop licence. We are just keeping that licence.

**ACTING CHAIR**—But you can fish scallops or shark?

**Mrs Lade**—Yes.

**ACTING CHAIR**—Is it a matter of converting the boat to either capacity?

**Mrs Lade**—Yes, or actually buying a suitable boat in our case.

**ACTING CHAIR**—The committee is interested in how the regulations began. I think your husband has been fishing for 21 years and he inherited or gained the business from his father.

**Mrs Lade**—Yes.

**ACTING CHAIR**—You have got a thousand hooks?

**Mrs Lade**—Yes.

**ACTING CHAIR**—And you have a licence to fish using a thousand hooks?

**Mrs Lade**—Yes.

**ACTING CHAIR**—That was set on a criterion of how much fish your husband or your husband's father had taken in certain years.

**Mrs Lade**—Their criterion, as I stated in the letter, was that, for a 2,000-hook licence, you had to catch 15 tonnes in two of the three years, which were 1986, 1987 and 1988.

**ACTING CHAIR**—Do you know why they set those years?

**Mrs Lade**—I do not have a clue.

**ACTING CHAIR**—Did they ever tell you why they set those particular years?

**Mrs Lade**—No. It was in 1993 when the hook management came in and to set it back in 1986, 1987, 1988, to me was ridiculous. I think they should have taken into consideration the full-time dependent shark fishermen then.

**ACTING CHAIR**—Looked at the fishermen in the industry and made judgments on that?

**Mrs Lade**—Yes, for sure. We have got a lot of hook fishermen in the industry who have not used their hooks for yonks—years and years and years—and suddenly they have got a 2,000-hook licence, or there are ones that have not used hooks at all.

**ACTING CHAIR**—They use nets?

**Mrs Lade**—That is their business, but we just feel that AFMA has not looked at our case individually and has ruled unfairly.

**Mrs BAILEY**—Through your own association, have you asked AFMA why this decision was taken?

**Mrs Lade**—Yes.

**Mrs BAILEY**—Have you ever managed to get any answers?

**Mrs Lade**—All I got was that we have not caught the fish in those criteria years.

**Mrs BAILEY**—But they did not tell you why those years were chosen?

**Mrs Lade**—No. Also, I have stated in my submission that we have got a document—I have got it

here, actually—from the licence that we purchased stating that he caught the amount of fish that was to be used in the criteria, but we were not allowed to use that because they tell me the licence was on the shelf, in abeyance. I asked, ‘How come this is?’ and I just got told, ‘Well, we can’t advise you.’

**Mrs BAILEY**—Do you know of others in a similar situation to yourselves?

**Mrs Lade**—Not personally, no.

**ACTING CHAIR**—The evidence that you were talking about, the paper, is that a letter from the person that owned the previous licence?

**Mrs Lade**—From the accountant—the accountant who owned the previous licence. And if they were to go on my husband Dean’s catch history, from when he started fishing on his own in 1989 to 1993, we exceeded that fully.

**Mr ANDREN**—Whether it is Dean’s father or not, you feel you are being penalised for the assessment on the previous licence holder, and it is the same as if you had bought it from somewhere else who had a very reduced catch?

**Mrs Lade**—Yes, we just assumed that if we needed to use the catch history from that licence it would be true and correct. This guy is deceased now, so I am not going to go digging things up. My husband was working with his father, he was doing his apprenticeship. He fished since 1975, since he left school in grade 9. He never got a higher school certificate. Since grade 9 he has fished in the shark industry.

**Mr LEO McLEAY**—I need to get something cleared up. Is the licence you bought his father’s licence?

**Mrs Lade**—No.

**Mr LEO McLEAY**—That is another licence?

**Mrs Lade**—It is another licence.

**Mr LEO McLEAY**—Is his father still fishing?

**Mrs Lade**—No. His father is part owner in the fishing boat industry, in our business.

**Mr LEO McLEAY**—What happened to the entitlement his father might have been able to get?

**Mrs Lade**—Pardon?

**Mr LEO McLEAY**—If his father was fishing over the years, would his father have had a hook entitlement because of the catch that he had in those years, 1986, 1987 and 1988?

**Mrs Lade**—Yes, he probably did, but he is talking about going back into the industry on his own. That is his business, if you can get what I mean.

**Mrs STONE**—So you cannot transfer or buy your father's licence or some part of it?

**Mrs Lade**—No.

**ACTING CHAIR**—We will just clear this up. You actually—

**Mrs Lade**—We have more or less gone on our own.

**ACTING CHAIR**—And you bought your own licence and entitlement when you started fishing? Is that correct?

**Mrs Lade**—Yes.

**ACTING CHAIR**—And the figures, the catch, that were on that licence then, you were not able to use when the criteria were set by the authority to hand out the level of catch? Is that your—

**Mrs Lade**—Yes. Dean's personal catch history was not in the criteria years. But, thankfully, the person that we bought the licence from had shark fished in those criteria years.

**ACTING CHAIR**—But are you critical that the figures were taken off that licence and that is what you got your—

**Mrs Lade**—Yes. Because it was in abeyance they would not use it. And also they did not—

**ACTING CHAIR**—I am not clear on why it was in abeyance. Did the authority use some figures to set your level of hooks?

**Mrs Lade**—Yes. In 1986 he caught nothing. In 1987 he caught about 8 tonnes, which allowed him into the 1,000 hook criteria, but in 1988 he caught in excess of 30 tonnes. But because in 1988 they tell me the licence is in abeyance—Commonwealth and state—they will not use it. The document that I have has got the docket numbers, the dates and the amount of fish.

**ACTING CHAIR**—Would you like to make that available to us in a copy form?

**Mrs Lade**—Yes.

**Mrs STONE**—As we have just heard from the previous person, you cannot buy additional hooks as part of a licence from anyone.

**Mrs Lade**—No.

**ACTING CHAIR**—Even from some of the people who would like to get out, maybe because of the health of whatever, you cannot buy?

**Mrs Lade**—No, they are non-transferable.

**ACTING CHAIR**—What does that mean to you?

**Mrs Lade**—I do not know what we are going to do. Our whole income, 100 per cent of our income, depends on the shark industry. We are going to have to sell out, get out, or just go deeper into debt.

**Mr LEO McLEAY**—But if your husband's father got out of the industry, could your husband inherit his father's licence?

**Mrs Lade**—No, he has not got a licence.

**Mr LEO McLEAY**—Just to go back to the beginning again so that we can get this clear, your father is a fisherman and you started fishing with your father when you left school.

**Mr Lade**—Yes, I was 15.

**Mr LEO McLEAY**—You then got married and went out on your own, bought a licence, and hoped to live off that licence. Your father stayed in the industry still fishing with a partner. Is that correct?

**Mr Lade**—No, my father sold out of the industry. He got out. My mother took crook and he stayed at home to look after her, so he had to get out of the industry. Debbie and I bought another licence and went out to the shark fishery.

**Mr LEO McLEAY**—Why would you not have been able to have acquired your father's licence then? Did he have a licence?

**Mr Lade**—Yes, he had a licence.

**Mrs Lade**—He had a net licence.

**Mr LEO McLEAY**—What did he do? He sold that, did he?

**Mr Lade**—He sold out. He sold the boat and the licence package. He sold the whole lot out. Yes, he got out of the fishery.

**ACTING CHAIR**—He had enough money to live on then.

**Mr Lade**—Yes.

**Mrs Lade**—He bought another boat and we bought the licence and we just went fishing for him.

**Mr LEO McLEAY**—But he could have sold that to you?

**Mr Lade**—He could have done, I suppose.

**Mr LEO McLEAY**—Or he could have given it to you.

**Mr Lade**—We did not have the money at the time to buy that licence. That licence was worth big money. The licence we bought was worth \$15,000 whereas his licence package was up in the hundreds of thousands.

**Mr LEO McLEAY**—Would it not be unfair for AFMA to take into account your history of working for your father when, in effect, your father sold that history for a couple of hundred thousand?

**ACTING CHAIR**—I do not think that has been said.

**Mr Lade**—No.

**Mr LEO McLEAY**—It is because Mrs Lade is saying that his historical interest in the industry should have been taken into account. In fact, your historical interest in the industry was part of the capital of your father's licence which he sold.

**Mrs Lade**—No.

**Mrs BAILEY**—You are saying that the licence that you bought and the history of the fishing of that licence was zero in 1986, 8 tonnes in 1987 and 30 tonnes in 1988 and that AFMA did not look at the average of that, they only looked at in 1987 and issued you a licence—if I am correct in understanding what you have said—based on the catch for 1987 which only entitled you to 1,000 hooks. So all the previous history of the family is irrelevant to the question of the licence that you now operate on with 1,000 hooks?

**Mrs Lade**—Yes. Also, when he fished from 1989 on to 1993—

**Mrs BAILEY**—That was not taken into account. Okay, we have got that.

**ACTING CHAIR**—That is a good piece of evidence. We will pursue that.

**Mrs STONE**—Fran has already asked you about this. There is not an appeal process for you, you were explaining. You have made an inquiry to AFMA and there is no appeal process that you can now pursue?

**Mrs Lade**—No.

**Mrs STONE**—Is your 1,000-hook licence not viable—that number of hooks?

**Mrs Lade**—We are making a living of it. But it is just when it comes down to quota. We are not

greedy, but if it comes down to quota, a guy that has got a 2,000-hook licence and has not hooked in his life is going to get double the quota that we are, and we are trying to make a living wholly and solely—

**ACTING CHAIR**—So if they had taken the basis on 1988 and the 30 tonnes that you had caught, you would be in the 2,000 hooks?

**Mrs Lade**—Yes.

**ACTING CHAIR**—And that question has not been answered by AFMA of why they did not give you that opportunity?

**Mrs Lade**—No. I have got a letter from them. All they have told me is that it was in abeyance and therefore could not be used.

**Mr LEO McLEAY**—I would like just to go back to my first point. You say in your submission here: Instead of making their decisions on just catch history A.F.M.A. should have based their decisions on Dependency and Historical involvement in the Shark Industry. So you are saying that they should take into account your husband's working life in the industry. Was the licence that you bought being used at the time you bought it?

**Mrs Lade**—No, because the man who we bought it off was very ill. Therefore we bought it and we had to go back in—

**Mr LEO McLEAY**—How long had it not been used for?

**Mrs Lade**—It was about 1989—seven or eight months, probably. I am not 100 per cent sure.

**ACTING CHAIR**—So when did it stop—in 1989?

**Mrs Lade**—We bought the licence in November 1989 and started fishing straight away with that licence.

**Mr LEO McLEAY**—Do you know when he stopped in 1989?

**Mrs Lade**—No, I don't.

**Mr LEO McLEAY**—Or did he stop in 1988 or 1987 or 1986?

**Mr NAIRN**—He got 30 tonnes in 1988 so they accepted 30 tonnes.

**Mrs Lade**—That is what I am trying to get some answer on. How come he has got this tonnage in 1988 when they tell me the licence is on the shelf?

**Mr LEO McLEAY**—Could he have handed the licence in, do you know?



**Mrs Lade**—How could he catch fish when he had not got the licence?

**Mr LEO McLEAY**—When he got sick he might have handed it in.

**Mrs Lade**—But he still caught the fish. He caught in excess of 29 or 30 tonnes in 1988. Therefore—

**Mr Lade**—The man is not going to hand his licence in to the Fisheries and maintain his boat and keep fishing in the southern shark fishery for 12 months without a licence on his boat. If he does he risks losing the whole flaming lot.

**Mr ANDREN**—Let us go down the quota path—based on your catch, let us say, from 1990 to 1993, if they used that as a basis and if a whole new set of criteria were drawn up. Your 1,000-hook allocation and your catch should secure a quota over and above that 2,000-hook unused licence that you have been talking about, shouldn't it?

**Mrs Lade**—Yes.

**ACTING CHAIR**—So really what we are talking about is that you would like to see it go down the quota path, the output path, would you, if there were fair criteria?

**Mrs Lade**—If it was fair and equitable, yes. But at the moment, I mean, I am involved in the SSIC committee, the Southern Shark Industry Council, and the way AFMA are putting quota across it is a quota on unit only.

**ACTING CHAIR**—So the hooks were allocated on a catch basis but you are saying the quotas may be allocated on an existing hook entitlement?

**Mrs Lade**—Yes. That is what they are talking about and those are my concerns at the moment, being on this committee.

**ACTING CHAIR**—Thank you very much. You have given us some very good evidence and we will certainly be pursuing that in future hearings.

**Mrs Lade**—Thank you.

[9.35 a.m.]

**BRINKMAN, Mr Norman, Managing Director, Fish Pak Pty Ltd, 92 Mornington Road, Mornington, Tasmania 7018**

**ACTING CHAIR**—Welcome. We have received your submission and we have authorised it to be published. Are there any changes to the submission?

**Mr Brinkman**—No, there are no changes to be made.

**ACTING CHAIR**—Would you like to make a statement before the committee asks you questions in relation to that submission?

**Mr Brinkman**—I have come into the fishing industry from the side of processing. During the period when I was processing and buying fish independently off the wharf, the management authority put in certain quota restrictions and then individual transferable quotas. These quotas were made available only to existing operators in the industry who were fishing and, as such, prejudiced my business in the form that a lot of my competitors that were processing actually were owner-operators and it gave them an advantage over me in securing fish for the factory. That competitive advantage I had to try to compete with by trying to enter into the fishery in purchasing quota. My initial ability to purchase quota was restricted by AFMA for a period of two years, in effect. It was meant to be a one-year moratorium but through the difficulties that they had the moratorium really extended out to two years.

During that time I was put in a position where I needed to try to secure quota by methods of trust in my relationship with certain fishermen as opposed to holding the normal commercial terms. Having that situation that AFMA put on the processing industry, a lot of operators in this state particularly were unable to compete or to secure fish for their factory and consequently no longer process orange roughy. It was really only through my own bloody-mindedness that I was able to keep going and securing the fish. As a result, today we are coming to the industry from the processing sector into the fishing sector. Generally, it is the reverse in nature and people move into vertically integrating their business. I feel that, now that I am actually a quota holder and I own a vessel, I am faced with more problems from AFMA which are related to the insecurity of their having issued the quota.

We have certain court cases that we are currently faced with for AFMA, and there is talk of more court cases coming forward against AFMA with respect to the validity of the ITQ system. Now that we are in a position where my own company, along with the consortium of investors, has put in excess of \$2.5 million on the purchase of individual transferable quotas that, as yet, have not become statutory fishing rights, my fear is that once these court cases go through, if AFMA is unsuccessful in maintaining the ITQ system, this investment may be lost. I wish to voice my concerns on that matter.

There is another general point to do with the way that AFMA conducts its affairs in placing quotas. We have heard some submissions from shark operators today about how they are concerned about the assessment of their individual quotas down the track. One of the large issues is that they are going to be assessed on paper values, historic rights, and on everything but what effort is being put into the fishery at the

moment. A classic example of this is that we have made application for a developmental fishing permit at Macquarie Island, and AFMA has indicated that this developmental fishery will only allow one vessel in it for the next two years. The application criteria basically meant that nobody could successfully tender for that developmental licence other than the existing operator there. AFMA indicated that there would be a limited TAC on this area off Macquarie Island that the nominated vessel would be able to catch, and that it would need to be part of a research program to develop the sustainable level.

That is all fine but, at the end of the day, AFMA has not indicated how it will split up a sustainable quota in that area. It just seems to be a constant circle that fishermen are facing with AFMA, in that it has no foresight of the problems that it is creating for the future. It is that lack of foresight that puts us, as fishermen and as investors, in a very nervous position.

**CHAIR**—Thank you. That is the Patagonian tooth fish, is it?

**Mr Brinkman**—That is correct. As the committee has mentioned, that is a particular species that is very highly prized around the world. In the short time that that area has developed, it has probably caught in excess of \$5 million to \$6 million worth of fish, and that is only over a three- to four-month period of the year, as I understand it. It looks like being a very lucrative resource for Australia, and my fear is that it is going to be held up by people who are perhaps better at lobbying Canberra than I am—or AFMA, I should say.

**ACTING CHAIR**—We would like to make sure we got the science better than we probably got it on the orange roughy.

**Mr Brinkman**—That is a fair statement perhaps, but the point is that putting a competitive TAC of 2,000 tonnes during the developmental period will allow anybody who wishes to make a claim on that area to come in and make their claim. And during that developmental period all the research can be done and the access criteria can be created. The problem that we have now is they have a developmental period, they are going to determine what the TAC is and, at the end of it, they have got no ability to determine what the access criteria will be.

**ACTING CHAIR**—What the criteria are seems to be an issue coming before this committee pretty constantly. How many fish processors are there in Tasmania?

**Mr Brinkman**—I am speaking on orange roughy now. At the moment there would be five factories that are geared to process orange roughy, of which two are lying dormant and one of the other three stated that they are not going to be fishing in the southern sector. So it really leaves us with two or 2½ operators.

**ACTING CHAIR**—Were any closed because of loss of orange roughy processing?

**Mr Brinkman**—During the early part of this decade there probably would have been 14 or 18 orange roughy fishermen—a figure like that. A lot of cray fishing sheds and various other processors moved into the orange roughy fishery. As soon as it was quotaed their ability to access fish was limited by the fact that the boat owners who held processing factories were able to ensure that quota came to their factory.

**ACTING CHAIR**—Do you sit on any of AFMA's consultation committees?

**Mr Brinkman**—No, I do not. I attend as many industry meetings as I can. I liaise directly with SETFIA—the South East Trawl Fishing Industry Association. Every year for the last five years I have attended their annual workshop which AFMA have put on for the south east trawlermen. I was nominated to be a SETFIA member this year, but I have had to abstain from that for the moment as a result of my business commitments.

**Mr NAIRN**—The quota that you bought to get into the fishing aspect was bought from another operator who was allocated that quota in 1991 or 1992 presumably?

**Mr Brinkman**—That is correct.

**Mr NAIRN**—When you bought that, from a financing point of view did you take into account that quotas are only yearly licences? Was the expectation in the industry that this is a statutory fishing right, which it legally is not really?

**Mr Brinkman**—The direction that AFMA had indicated all along was that the individual transferable quotas would be converted into statutory fishing rights as soon as they could get the management plan through. The successful court action in the Austral case meant that AFMA had to go back to the drawing board on the fishing plan, and that has delayed it. My belief always has been that, irrespective of the direction that they go, today that is the measure of what fishing rights are. Prior to that it was units of input effort into fishing vessels. With that change, they have actually more or less dissolved the value or the existence of units and, therefore, if they move onto any other fishery or any other management of the fishery, I would expect that the ITQs would have to be a method of judging either your investment or position in the fishery.

**Mr NAIRN**—There would be people that were allocated quota back in 1991 that have virtually never used it, and have sort of sat there—like Collins Street fishermen, I suppose, for want of a better term. Do you think that that is a fair assessment of the fishery that they should be converted into statutory fishing rights?

**Mr Brinkman**—To answer your question in two parts, the people who were issued statutory fishing rights and have not fished, and probably have not got much of a return on them perhaps, other than the ling quota and blue-eye and eastern orange roughy; there are other people who have actually bought quota, but never fished them, but were in this consortium group and they did it as a pure investment.

I do not think those fishing quotas should be taken away from them, but I do not think the agenda should include trying to create this Collins Street fishermen approach. What has happened has happened and we cannot really turn around and take those fishing rights off individuals who have them but do not use them. But I do not think we should be creating more of them. In conclusion on that point, if the government went away and put a competitive TAC so that it allowed any operator who is licensed to fish the species, I think it probably would be a fair thing to look for compensation for those who had invested in ITQs.

**Mr LEO McLEAY**—Is not this a dichotomy of this whole industry that we have the fishermen come

along and say, 'The only people who should be allowed to divvy up these quotas, or hooks or whatever, are the people who have an historical interest in the industry,' but the investors and processors say, 'We ought to be able to get into the industry too.' How should that be resolved?

**Mr Brinkman**—My personal belief—and it probably prejudices my own investments—is that we should run a competitive TAC and, therefore, control the fishery based on what stocks there are, rather than trying to divvy it up amongst individuals. If we have a competitive TAC for orange roughy of 2,000 tonnes in the eastern sector, as we have today, if one person catches it, or if 100 people catch it—actually there are 150 people licensed in the south-east trawl who probably have the ability to go in and catch it—it makes no difference to the resource, there is 2,000 tonnes caught. I believe that AFMA's position should not be in trying to divvy up resources, but should be trying to maintain the ecological sustainability of that resource, and they have failed to do so on both occasions.

**Mr LEO McLEAY**—But what if they all go out there and have one grand slam and catch 10,000 tonnes?

**Mr Brinkman**—Then the fishery will be closed for five years. That is a management decision that they will need to make. To have 10,000 tonnes, we have Inmarsat on vessels that fish for orange roughy. It would be possible to put that on other species as well. We have two-hour reporting abilities; we have probably, let us say, 10 boats that have a capacity above 1,000 tonnes, so there are management facilities available to monitor what the catches are at sea, let alone after they have landed. So I think AFMA have the ability to control that.

**Mr LEO McLEAY**—Would that not advantage the big boats against small boats?

**Mr Brinkman**—We are speaking specifically here on orange roughy and I think that certainly is an advantage to bigger boats rather than smaller boats in that fishery, and it is really a fishery that—

**Mr LEO McLEAY**—The bigger boats tend to be owned by investors rather than by fishermen, are they not?

**Mr Brinkman**—Well, that is then determined by the definition of a fisherman: if a fisherman is one who physically stands on the deck and catches the fish, fair enough; if a fisherman is one who invests his capital and his effort into catching fish, that is another.

**Mr LEO McLEAY**—It seems to me that AFMA's problem here is always balancing this; that your heart tells you that you ought to look after the fishermen and you tell us you have come along and discovered this cottage industry—that is what it is, and it ought to be rationalised. What you are doing is rationalising the industry, but the cottage industry people who stand on the decks say, 'Well, that is terrible. This is our livelihood.' How does one resolve that question?

**Mr Brinkman**—I think a lot of the anomaly of what is a cottage industry and what is not a cottage industry has been already removed with the issue of individual transferable quotas. We often confuse the large catches of orange roughy and it is suggested that that is part of what the whole industry is. A vessel

such as my own, which is a larger vessel in the south-east trawl, or one of the larger vessels in the south-east trawl, is uneconomical to run for market fish and therefore the smaller vessels that operate out of Portland for the bulk of the 16 species that are currently quotaed are more competitive than I am.

**Mr LEO McLEAY**—Should a person who sells their quota out of the industry—they sell their quota to you—just get out of the industry, full stop? Part of the problem in this industry is that people get a quota because of their involvement in the industry, sell it and then try to get back into the industry in some other way, from some other quota they had or by riding on the back of some of the experience they had.

**Mr Brinkman**—I do not think that is so much the issue. It is the fact that if the management allows them to get back into the industry, and allows them in on a sustainable catch basis, then that is fair. There are certain operators that have had orange roughy quota issued to them and blue grenadier quota issued to them, which was the main part of their business, and they sold out their quota in order to buy another vessel. They then used that vessel to target non-quotaed species or, in fact, leased the species progressively off those that are not catching it. So in some respects the ITQ structure has allowed more vessels, or more larger vessels, to come in and operate in the industry, as opposed to rationalising.

I think the question of rationalising the fleet is more a determining of whether the stock can sustain that number of vessels or that amount of effort. AFMA continually come back to the questions of whether it should be a cottage industry, whether it should be large factory trawlers running around Macquarie Island or whether it should be intermediate vessels, such as ourselves. I think the economics of each of those are beyond AFMA's ability to make fair and equitable judgments on and I think that they need to allow the industry, through the economics that are presented before it, to decide how to structure its fleet.

**Mr LEO McLEAY**—But the economics will force the small boats out, will they not?

**Mr Brinkman**—I have already demonstrated that is not the case. With smaller vessels off New South Wales, they are far more competitive at catching the majority of the 16 quoted species than are vessels of my size; whereas vessels in the southern sector need to be of my size, otherwise the weather would sink them. Vessels of my size going down to Macquarie Island are very marginal because of the length of time it takes to travel to those areas. And because we are a fresh fisher, not a factory boat, we are perhaps not as competitive as a larger boat. But due to the value of the Patagonian tooth fish, it may be worthwhile for us to look at that. Yet a large factory trawler would not be able to make it pay, fishing out of Hobart for southern orange roughy.

So the economics are relative to the particular area. Just because you have a larger boat does not mean you are going to catch more fish, or catch them cheaper. This is currently demonstrated by a vessel called the *Cape Hood*. It is owned and operated by a gentleman called Will Nicholls, who has a substantial amount of quota in the south-east trawl. He figured that the only way he can come in and catch that quota is by bringing in a vessel—of some 40 to 45 metres in length. He is now finding it difficult to support the prices for the volumes that he is catching.

**Mr ANDREN**—Is there any danger that there is a degree of unrealised potential locked up in ITQs that a trading market could develop, that basically has little to do with efficient, sustainable exploitation and,

in fact, locks out the smaller operator from a share of the action?

**Mr Brinkman**—There is a risk of that. We have seen an instance this year with one individual who leased a large amount of eastern orange roughy at a premium at the start of the year. The fish were a bit fickle at the start of the year. When they came together for the spawning aggregation, the price collapsed and, at that point, he was fishing his fish for 30c on what was a valued fish at the fish market of around \$3.50 a kilo.

**Mr ANDREN**—Going back to the earlier evidence we had from the shark people then, should the ITQs be based on proven, current activity within that sector rather than a commodity that could be traded?

**Mr Brinkman**—I think this was what I was suggesting: that a competitive TAC would move into that area, would then take into account the flexibility of what the fish stocks are doing in any particular year. An example of this is that we had a 3,000-tonne TAC in the southern sector for orange roughy this year, plus a 20 per cent carryover of the uncaught fish of the previous year. Current catches look like being around 600 tonnes at the moment and around 750 tonnes by the completion of the year. Fishery people would then say, ‘Oh, the fishery has collapsed,’ et cetera. They have found there have only been five boats working that area, whereas there had been 17 or 18 boats in previous years.

So, having a competitive TAC would have caught the same amount of fish but would have meant that the people would not have had this false view of the value of their ITQs. On the other hand, species such as ling are being caught by the trawl fishermen and being dumped at sea because they have not got enough quota to cover it. It seemed to be a good year for ling, particularly last year. That brings up another point which I have raised in here—AFMA’s ability to work on maintaining a sustainable yield. They basically place a TAC on quotaed species and then divvy it up in ITQs, and that TAC is based on the sustainable level of that species with the given knowledge that they have.

Now, they put a TAC of 2,000 or 1,500 tonnes on ling over the last couple of years, and that is meant to be the sustainable level. Yet they are able to have non-trawl fishermen—to which I have no objection—go out and catch as much as they like. The question is: are they managing it to the sustainable level or are they managing it to suit themselves?

**Mr ANDREN**—It strikes me that TAC, while it obviously maintains the stocks of whatever, is a bit like the Le Mans start, with all the restrictions—you cannot go above it and so on—and it does little to maintain the conformity perhaps and the sustainability, as Leo suggested, of the smaller operator. It seems to be a peak and trough approach. Do you get what I mean?

**Mr Brinkman**—Yes, I do. My actual point of criticism was that we have not got a starting point. They say the TAC is so much, yet they let the gill fishermen catch spotted snollies in excess of 2,000, which was greater than what the TAC was in the trawl sector. How can they allow one group of operators to be prejudiced against another group of operators when there can only be one TAC by definition? The TAC is the total allowable catch. That means not the total allowable catch plus another 2,000 tonnes; not the total allowable catch plus any other amount. Yet they say it is the total allowable catch for the trawl sector. Well, that is fine, but then what is the total allowable catch for the resource? All along, they have stated that it is

only the total allowable catch of the resource, and that is my objection to it.

**Mrs STONE**—In reality, you are saying it is not; it is TAC as per a particular catching method?

**Mr Brinkman**—Exactly; so long as AFMA allow other operators to have their licences and catch as much as they like and increase their effort as much as they can, which is what has been occurring. You see an auto-trawling boat off Tasmania here, catching ling, which puts about 25,000 hooks, as I understand it, in the water for ling. You see operators out of Lakes Entrance that are gillmeshing. They have got very good boats, very good equipment, and their catch effort has increased over the years. The total allowable catch, which is supposedly the sustainable total allowable catch, is being caught in excess, with AFMA's full knowledge. The question comes back: if you have a TAC and it is a competitive TAC and all operators work under that TAC, then it should not matter how you catch it, whether you catch it by gillnet, by hook or by trawler.

**ACTING CHAIR**—Based on sustainability?

**Mr Brinkman**—Exactly.

**Mrs BAILEY**—There is a general question. You have got a range of criticisms of AFMA over specific issues. Do you think that the problem is one of lack of consultation, or is it the actual management model of AFMA? Can you share some of your thoughts on that?

**Mr Brinkman**—I am more than willing to share my thoughts on that. I had not a lot to do with the AFS, the previous Australian Fisheries Service, which managed fisheries, so my comments need to be limited on how successful they were.

However, I have knowledge of AFMA since its creation and I think the fundamental structures of AFMA are sound. I think the ability for industry to be represented through their industry groups, to have people on the management authority committees and then for those management authority committees to put forward their suggestions to the board gives a sound structure for the industry to be managed. The problem which I constantly come up with, as I think I have put it down here, is that there is no personal accountability for the management of AFMA. For that reason, I have come and made some submissions to this Senate committee so that perhaps we can bring the management—

**ACTING CHAIR**—We are the House of Representatives. This is the A-team.

**Mr Brinkman**—I stand corrected.

**Mrs BAILEY**—Or the AA!

**Mr Brinkman**—The thing is about the accountability of AFMA. We have Jim McColl, Richard Stevens and the others on the board stand up and tell us, 'We will not put in a new management plan.' This is going three or four years back now, in a south-east trawl workshop open forum. They stand up and they say, 'Because of the problems that we have in our first management plan; because of the fact that we have



OCS, the constitutional settlement agreement, not settled; because we have not a TAC that is global over all fishing sectors—because of these major issues, we will not implement a management plan until we get these resolved. It would be pointless to go on.’ Industry looks at this with great heart. It says, ‘They’re finally going to take action on the problems that have occurred.’

At that meeting one of the big issues was that some trawlermen were starting to mid-water trawl for blue-eye trevalla. There was a great uproar, because it seemed as though it was going to be a successful method of fishing. So, at that point, they slapped a trip limit of 200 kilos on blue-eye within two weeks of the first successful landings of mid-water trawl. AFMA at that stage had shown its ability to act to the concerns of fishermen. And the concerns came from the hook fishermen, who said, ‘They will smother our markets. We do not know enough about the resource. If we let it go on too long, the fishery will collapse for all of us.’ Whether that is a valid point or not, I am not going to argue here. The fact is that AFMA took the initiative and they shut the fishery down to the mid-water trawlermen within two weeks of the first landings.

At that same time, they then came in; they put in the TACs and ITQs shortly after that or in those months when that occurred. Then the question of the non-trawl sector and ling came up, and then we see a boat being given an exploratory or developmental licence for auto-trawl and catching ling that represents probably close to 20 per cent, his catch must be up to, of what the total TAC is. There is one vessel catching 20 per cent of the TAC put on the whole of the south-east trawl and as of that time—today—AFMA still has been unable to act on closing down that fishery. So we have a point now where they said last week at the workshop committee that the new management plan was in draft form, that industry still had not seen it or made comment on it, yet they were hoping that by October industry would have that draft form to comment on. Then they were saying that their program is that it will be enacted on 1 January 1997.

At the same time they are saying that they are aware they have not resolved OCS. At the same time they are saying they are aware they have not brought in the non-trawl sector under the TAC regime. At the same time they are faced with litigation from fishermen. There is one class action going against them at the moment, and there is another one that opinion is being formulated on; whether that proceeds or not I do not know, but they are aware of these class actions that have been taken by trawlermen against AFMA. Yet they are prepared to put in a management plan that is going to see us into the future.

It is that lack of action from AFMA and from the AFMA management that puts a prejudice against trawler operators, and we will see will put a prejudice against the shark operators, it will put a prejudice against the operators who want to go for Patagonian tooth fish, it will put a prejudice against any fishery that they take as a result of the fact that they are looking at individual concerns rather than sticking to what their criteria are of sustainable yield and of economic efficiency.

**ACTING CHAIR**—You mentioned an auto trawl. Can you give us a definition of what an auto trawl is?

**Mr Brinkman**—An auto trawl is a vessel that can run a large amount of hooks—they run a huge line and they have these cassettes of side hooks. They feed the cassettes through the machinery and it automatically baits the hooks. One of the most time-consuming parts of the line fisheries is baiting your hooks and setting them. When you have a bin with all your bait in and the hooks automatically going through it, you

can set around 20,000, 25,000. The large auto trawlers around the world, can set up to 100,000 hooks. These larger ones are not in Australia. They gave a developmental licence to explore whether it is a style of fishery that we should allow within Australia. It is probably the fastest growing style of fishing around the world, because of its successful nature in that you can get a lot of hooks into the water.

**ACTING CHAIR**—You can also target fish by doing it that way, can't you?

**Mr Brinkman**—Well, you can target fish in many different ways. You can target fish by trawl, you can target fish by gillnetting, you can target fish by hook. You can also put a non-discretionary way of catching fish as well. One of the reasons why hook fishing is not being advocated in Macquarie Island for the Patagonian tooth fish is that the trawl seems to be able to target the smaller species, hence leaving the larger fish, which are no more in all other Patagonian tooth fish areas. Where auto liners are catching the fish, they are catching the larger species, which is knocking the breeding stock.

**Mrs STONE**—You just referred to Patagonian tooth fish. We heard about those from the CSIRO yesterday. That is a new fishery, obviously, and one with potential great value to us. How do you see AFMA responding to that new fishery: is it any sense a model for what can be done? Is it a good model, a problem, or are you congratulatory?

**Mr Brinkman**—I went over that point, which you missed.

**Mrs STONE**—I am sorry, I had to leave the room.

**Mr Brinkman**—I am happy to do that again.

**Mrs STONE**—I will check the record.

**ACTING CHAIR**—Any further questions? Well, thank you, Mr Brinkman, for your evidence and your time, and for the opportunity that you have given us to ask questions about that evidence.

**SCHAAP, Mr Alexander Harold, Acting General Manager, Marine Resources, Department of Primary Industry and Fisheries, GPO Box 192B, Hobart, Tasmania, 7001**

**ACTING CHAIR**—Welcome. We have received a submission from you, from the government, which we have authorised for publication. Is there anything you would like to change in that submission at the moment?

**Mr Schaap**—No. The written submission is fine as it stands.

**ACTING CHAIR**—Would you like to make a statement before we ask questions in relation to that submission?

**Mr Schaap**—I will give a brief run down of the crux of the issue as the Tasmanian government sees it. The first thing is that when dealing with an assessment of the performance of any fisheries management agency there are a very broad range of issues that can be picked up. Indeed, it is really rather too easy to criticise any fisheries management agencies so I have some sympathy with AFMA and the process they are going through.

What our submission concentrates on is what we think is one of the key issues with respect to management of the Commonwealth fisheries and that is the nature of the fisheries legislation itself, particularly in terms of both the Fisheries Management Act and the Fisheries Administration Act. The nature of the objectives of that legislation, unlike the legislation in a number of other jurisdictions in Australia, does not have a clear statement of the fundamental purpose of fisheries management. It discusses the need to maintain ecological sustainability, it discusses the need for efficiency of management and efficiency of exploitation, but it does not say why we are going about those exercises.

The Tasmanian legislation, for example, makes it quite explicit that the purpose of fisheries management is to maximise the benefits that accrue to the community from the exploitation of its resources. That really sets the scene for how a fisheries management agency is to perform its functions. It has a lot of practical implications in terms of how an agency operates.

I think the best example of that is to look at how an organisation like AFMA relates to its industry under its current objectives. I think AFMA has really taken the lead in Australia in a lot of respects in terms of its consultative arrangements with industry and its transparency of cost recovery processes. There are a lot of issues that are worth some plaudits.

However the nature of the relationship that AFMA has with industry is necessarily very heavily influenced by its legislative objectives. The objectives say, for example, that fisheries management is to be economically efficient within the constraints of the ESD. The problem with that is that potentially at the end of the day fisheries management becomes an exercise for the purpose of benefiting the current participants in the fisheries, rather than the broader community who, in Australia at least, are recognised as being the owners of the fisheries resources.

That dichotomy really does present some problems because it is almost inevitable under those circumstances that AFMA will become closer and closer to its current industry participants and, because its objectives are to maximise their efficiency, it quite reasonably takes a great deal of its guidance from the wishes of the current participants of the industry. Those aspirations of industry participants are however not necessarily the same as you might expect to see from the broader community or indeed the next generation of fishermen. That is where I think you run into some potential problems.

There is a perception around some sectors within Australia that AFMA has become the victim of client catching from the commercial sector. I think that criticism is perhaps a little unfair, because as I said the way the act is phrased it is almost their job to become captured by this client group. The act almost says—not quite—that the purpose of fisheries management is to benefit the participants in that fishery and there is a full stop there. It does not go much further.

The Tasmanian government contends that there is a very pressing need to balance those objectives of economic efficiency with an up-front statement of the purpose of fisheries management. Very simply put that would be, 'The purpose of fisheries management is to ensure maximum return of benefits to the community from the exploitation of fisheries resources within the constraints of ecologically sustainable development.' Tasmanian legislation reflects that. Indeed, so does the legislation of some of the other states. I think that one simple change would have a dramatic impact on how Commonwealth fisheries are managed in the longer term. It would have a very real impact on decision making at the operational fisheries management level.

Perhaps if I can create two hypothetical examples it might clarify just how significant those changes can be. In the first case, consider a fishery which involves a long lived and unproductive stock, a relatively recently discovered fishery which has already suffered from some capitalisation from the fishing fleet in terms of allocating effort to that fishery. The aspirations of the current participants in that industry would be to maximise the rate of exploitation of that stock, accelerate the fish down period and reduce that stock to a fairly low level, because an unproductive stock in the long term would only yield a fairly low sustainable harvest over time.

So if you have the problem of the current industry participants with substantial funds tied up in capital, what they would be interested in is maximising the return on that capital quickly, getting down to the reduced biomass level and then taking that capital and hopefully allocating it elsewhere. In practice that allocating it elsewhere step can be very difficult, but nevertheless in the simplest terms they would be looking to fish down quickly and fish down to a fairly low level.

**Mr LEO McLEAY**—Would that also have the advantage of keeping other competitors out?

**Mr Schaap**—I think that is certainly one of the driving forces. Those people who have the capital in place would be seeking to maximise the return on that capital as quickly as possible to ensure that somebody else is not going to take the benefits of that resource as well. That competitive factor is one of the drivers in the exercise.

**Mr LEO McLEAY**—Do you think we are in the cream-skimming phase now?

**Mr Schaap**—I am not quite sure that I appreciate what you mean.

**Mr LEO McLEAY**—Cream-skimming is taking the best part out and then seeing where it goes from there.

**Mr Schaap**—It varies very much from fishery to fishery. Remember the example I am talking about is a long-lived unproductive stock. If you are talking about a more productive species like prawns for example, it is much more likely that the aspirations of the broader community, the industry and future generations of the industry are going to be more consistent. But in a long-lived species, the most economically efficient harvesting strategy is to reduce it to its base—that is, the lowest acceptable biomass level—fairly quickly and generate the returns.

There may be some marketing factors there that would lead to an inclination to extend that fish down period, because if you are flooding a market, your prices might go down. That dichotomy of objectives is something that could well result in very different management decisions being made depending on whether a fisheries agency is compelled to take into account the interests of the broader community and future generations of fishermen.

**ACTING CHAIR**—Does that take into consideration the way that quotas or individual transferable quotas apply in your opinion?

**Mr Schaap**—The use of individual transferable quotas is a very valid management technique, but you can operate a quota management system in a number of different ways. You can have a quota management system which accommodates a rapid fish down of the stock to its minimum acceptable biomass level, or you could have a quota management system that has a slower fish down period and reduces the stock to a much higher level under quota management.

I feel that quota management itself is not the villain of the piece, nor is it necessarily the answer to everybody's prayers. It is well suited to a number of fisheries applications. It has significant advantages over input control methods, but it is unfortunately not necessarily applicable in practical terms to every fishery situation. For example, some fisheries simply do not generate the revenue or are so dispersed that the funding of an effective quota management regime essentially becomes impossible.

**Mrs STONE**—Or the biofish load is too great because the fish are not aggregated enough.

**Mr Schaap**—Certainly if you are running a fishery that is not terribly effective at targeting on the target species and involves a lot of by-catch species, then the merits of management by quota on the target species alone are a little more questionable and you really have to consider impacts on by-catch.

**Mr NAIRN**—Does the Tasmanian government carry out any roles on behalf of AFMA, particularly with compliance and that sort of thing?

**Mr Schaap**—The Tasmanian police fulfil the compliance role for AFMA in this region and indeed cooperate with enforcement agencies in Victoria and New South Wales, particularly in a fishery like the

south-east trawl where you have vessels operating across jurisdictions and there is a need for cooperation.

**Mr NAIRN**—And the Tasmanian government polices that, as opposed to fisheries officers?

**Mr Schaap**—Tasmania has, since 1985, had the fisheries enforcement role separated from the fisheries agency to the Tasmanian police. Our state enforcement of marine fisheries is done by the Tasmanian police as well.

Tasmanians are rather unusual in the sense that we actually have two fisheries jurisdictions within the state. The Department of Primary Industries and Fisheries through the Living Marine Resources Management Act administers marine fisheries. The Inland Fisheries Commission, through the Inland Fisheries Act, administers freshwater fisheries. It is quite an unusual situation.

**ACTING CHAIR**—They have a new fish in recent years called a carp.

**Mrs BAILEY**—You stated in your submission that you would like to see AFMA having wider consultation with groups other than industry. Is the Tasmanian government, through its departments, part of the consultation, or would you like to see greater consultation?

**Mr Schaap**—There are quite a number of issues there. I think AFMA has certainly made some good steps in the right direction in terms of trying to have its management advisory committees broadened to encompass other interest groups. One of the problems with the advisory committees is that there is only one seat available for state representation on those committees and so the states have to perform a bit of a juggling act to determine who is going to represent the states on each particular committee. That can lead to some problems. It has worked relatively well over the last few years. Perhaps some of our fears have not come to light.

I think AFMA has been making very serious efforts to ensure that it takes account of state views in terms of its decision making. There is so much going on in the fisheries scene that there will always be instances where AFMA makes decisions without having necessarily gone through the steps to give every state or jurisdiction comfort. That is almost inevitable in the dynamics of the fisheries management game but, generally speaking, I think they have certainly made an effort to involve the states. I do not know that there is much more they can do in that regard. At the end of the day they have to make decisions about their management arrangements. Those decisions often are not the decisions that one or more states would have liked to have seen made and sometimes we might feel that the views of the states have not been considered adequately by the AFMA board, but anybody who is aggrieved by a decision probably has that sort of perception. But, generally speaking, I think they do a pretty good job in consulting with the states.

**ACTING CHAIR**—The offshore constitutional settlements—there has been some criticism that it has taken too long, in some instances, to get those resolved. What is your opinion of that?

**Mr Schaap**—That was actually the second example I was going to give of the direct benefits of amending the Commonwealth legislation to put in that community benefit objective. In terms of the OCS negotiations with Tasmania, the major sticking point has been that the Commonwealth is particularly keen to

maintain jurisdiction over the recreational fishery for billfish and tuna. They quite rightly point out that at the high-level argument it makes sense for one species to be under one jurisdiction for all sources of mortality. That is a very reasonable statement.

Our concern, however, is that the Commonwealth legislation is framed in such a way that it really does not, in our view, provide for effective management of a recreational fishery. It does not have any of these community benefit objectives. It is preoccupied—I think that is probably the right word—with economic efficiency. Also it makes quite clear that the only way that AFMA can manage a recreational fishery is as a part of a management plan for a commercial fishery. Recreational fisheries management in the act is seen as nothing more than an adjunct to the management of a commercial fishery, which is a quite inappropriate perspective from which to approach recreational fishery management. There is no reason why one should consider recreational fisheries as being somehow of lesser importance than the commercial sector. Because of what we perceive as deficiencies in the Commonwealth legislation, we find it very hard to imagine that the Commonwealth can effectively manage recreational fisheries in a way that would satisfy the aspirations of the recreational fishery or the broader community. We believe that AFMA may well be compelled to make its management decisions in line with its current objectives in terms of maximising efficiency. If that is the case, it would be very difficult for AFMA to make a decision, for example, to allocate resources towards a recreational fishery rather than a commercial fishery, because demonstrating the economic efficiency of the recreational sector vis-a-vis the commercial sector would be very difficult indeed.

That has been one of the hold-ups in reaching agreement on OCS between Tasmania and the Commonwealth. The other issue is that, over the last tortuous months of OCS negotiations, we have discovered a number of drafting issues that we feel do need to be addressed to ensure that the agreements have solid legal foundations. So there are a few technical problems as well, but we feel we can make progress with the OCS resolution fairly quickly. The issue for us remains that recreational fishery sector, but we have some assurances from Canberra about that.

**Mr ANDREN**—In your summary you say that you would like to see amendments to the current legislation with the objective of maximising benefits to the community within an ecologically sustainable framework. To my mind that is very much a motherhood statement. I guess we would all like that—and it is almost applicable to the timber industry at the moment. Isn't the industry interest with those controls—total allowable catch, and so on—part of the community interest, given the knock-on economic effects and such? And, secondly, I gather most of this submission of the government is largely concerned with the environmental impact and the research shortcomings. Would you agree?

**Mr Schaap**—That is not the case, no. The principle thrust of that submission relates entirely to the management objective in the legislation. Certainly there are some environmental issues there which would be picked up as a consequence of clarifying the objectives in the legislation. But, to take up your point, certainly the interests of the fishing industry are a major component of the manner in which exploitation of resources can benefit the community.

What I endeavoured to do earlier was to point out that the manner in which the industry might seek to maximise those benefits is not necessarily the optimum manner for the broader community generally. There are cases where you would expect to find quite substantial differences in how you would approach fisheries

management, depending on whether you were doing it to maximise benefits to existing participants or whether you were maximising benefits to the broader community.

I go back to the example of a prawn fishery where you have a very productive stock. In those circumstances, the aspirations of the current industry participants and the broader community might well be very similar. However, where you are dealing with an unproductive stock, particularly where you involve substantial by-catches or possibilities for habitat degradation through the fishing activity itself, then the interest of the broader community might see you adopt quite different management arrangements to those preferred by industry.

**Mr ANDREN**—You have largely got questions about the 30 per cent biomass reserve for orange roughy, for instance, and areas like that. Given that the CSIRO scientists might tell us that 30 per cent is sustainable, from what scientific angle do you approach it?

**Mr Schaap**—I would perhaps preface my comments on that by saying that the stock assessment approach, the decision making models adopted for management of orange roughy, I think, are second to none, in that there is very good stock assessment, very objective decision making criteria, all the things that you ideally like to have in fisheries management. AFMA and the CSIRO are to be applauded for coming up with that scenario.

Where I think there is a problem is in how that data and guidance is used to make the final decision. Certainly, it can be argued on the basis of that scientific evidence that 30 per cent of virgin biomass is a sustainable level for the orange roughy stock. However, it is a matter of the level of risk you are prepared to accept as well. The decision that was taken in orange roughy is that we are prepared to accept only a 50 per cent probability of the stock climbing above 30 per cent of virgin biomass.

Thirty per cent virgin biomass is inherently more risky than 35 or 40 per cent. To then accept only a half probability of reaching that level further accelerates the risk involved. That is only to the roughy stock itself. If you then consider the implications for roughy exploitation on the rest of the habitat, including catches of by-catch species, which fortunately with roughy can be minimised by targeting aggregations, but certainly the impact of trawl gear on the habitats themselves, which can be quite substantial—as has been demonstrated in some part of Australia and elsewhere in the world—then you might well wish to take a far more conservative position than accepting a 50 per cent chance of 30 per cent.

**Mr ANDREN**—You are saying that the economic imperative is, you believe, governing even the CSIRO determination?

**Mr Schaap**—No, absolutely not. The CSIRO has presented a very good stock assessment and a very good decision making model. The CSIRO has provided that data, it is objective data, it has been tested with reviewers from around the world. I have no complaint whatsoever with what has been done there. What I am saying is that the manner in which that decision making tool has been used is the point at which you can run into difficulty.

In this case, it has been the management advisory committee making recommendations to the AFMA



board about the appropriate management target. I think that is where we come back to this problem about the legislative objectives. If the objective is to maximise benefit to the community, rather than maximise efficiency of the industry, one might expect that a group of industry participants would not play such a heavy role in determining the management target.

They might quite legitimately play a leading role in determining how that target is met in terms of what strategies are used but, in terms of setting the target in the first instance, you might perhaps find yourself with a situation where broader interest groups are involved in that decision and, indeed, the government itself, through AFMA as custodians of the resource, might well take that decision, even with strong opposition from the industry sector.

**ACTING CHAIR**—You are saying that if we had more community representatives or conservation representatives on those MACs, there would be a bigger balance?

**Mr Schaap**—I certainly think that the moves that AFMA has made to include those sorts of people will broaden the argument and ensure that other issues are addressed, but that of its own accord will not guarantee decision making—

**ACTING CHAIR**—There has to be an amendment to the act, do you believe?

**Mr Schaap**—I believe that an amendment to the legislation will give AFMA the authority to make those difficult decisions. At the moment, if it were to say to the roughy fishermen that we need a 90 per cent probability of 40 per cent virgin biomass, it would be very hard for AFMA to sustain that position because the legislative objectives—

**ACTING CHAIR**—And someone would take some litigation.

**Mr Schaap**—Potentially.

**Mr LEO McLEAY**—Is it not your argument basically that you want to maintain the cottage industry? The argument you are putting to us is that we ought not to be looking at the rationalisation of the industry; we ought not to be looking at economic efficiency; we ought to be looking to the potential for more people in the future maybe to get into the business. Maybe another community concern is that this resource ought to be exploited in the most efficient way possible.

**Mr Schaap**—Yes. It is possible that, depending on the prevailing social circumstances, the community might well take an approach of maximising returns in the immediate future at the expense of longer term returns. It is possible, but I certainly would not agree that what I have been saying is advocating a cottage industry. That is certainly not what I am saying. What I am saying is that you cannot always use the economic efficiency argument as the driver for fishery management decision making, because what you can potentially do then is to go a long way from optimising your long-term benefits from the exploitation of a resource in exchange, obviously, for some short-term gains.

**Mrs STONE**—Mr Schaap, I do not think you have dealt with the issue of transferability of individual

quotas. How do you see those in the scheme of things, in terms of short or longer term sustainability and achieving the most efficient outcome for the current and future enterprise?

**Mr Schaap**—One of the attractions of a quota management system is that it does allow an industry to respond to the market forces that are operating within it, to organise itself in the most efficient way, given the constraints that are put upon it. The only way that that can really take effect is if transferability is provided for in some way. However, there is a range of circumstances in which you have to be very careful about how their transferability might be undertaken. The south-east trawl fishery is probably one of the most difficult mixed species fisheries to manage through any management system. If you are transferring quota there, you need to be very conscious of the fact that you are not able always to explicitly target your target species. If people have been allocated quota on the basis of their prior histories, which represents the way that they have been fishing, and therefore their quota allocations reflect the quantities of the different species they have been catching, if you start moving that around and somebody ends up with all grenadier and no trevalla quota, how is the person who is taking all his grenadier going to accommodate his trevalla by-catch if he has dumped his trevalla in order to acquire blue grenadier quota?

One of the consequences is that you might well have vessels that are acquiring trevalla quota to target trevalla specifically, whereas in the past it was just a by-catch species. So you have over here one vessel that is now fishing for trevalla—it might have developed its gear and its techniques to do that—and a vessel over here that is taking large quantities of blue grenadier and, as a consequence, is also taking trevalla by-catch but is now not able to acquire any quota for trevalla and hence dumping that trevalla by-catch.

**Mrs STONE**—But during the season, in another scenario where they could transfer either temporarily or permanently, as we do in a number of other industries, could that not be still happening?

**Mr Schaap**—Certainly if—

**Mrs STONE**—I think the scenario you gave us just then was of a non-transferable environment.

**Mr Schaap**—No, that is what can happen with transferability. If this vessel over here that is targeting trevalla is set up to do that, it wants to acquire as much trevalla quota as it can. It does that by stripping trevalla quota from other vessels in the fleet that want to target something else. The problem is that, unless you can target effectively, there is still going to be that by-catch problem.

So there might well be a need in some fisheries like the south-east trawl to look at some rules about transferability that say, 'If you are going to transfer 1,000 tonnes of blue grenadier, you take so many tonnes of trevalla to go with it.' Certainly, people may well be able to address some problems by short-term transfers, but that is only if the stuff is available on the market floor, and that can be a problem. But you do need to have transferability in a quota management system, otherwise you do not get the rationalisation and you do not get the efficiencies that a quota management system provides opportunities for.

**ACTING CHAIR**—So your concern is about the by-catch?

**Mr Schaap**—That is one of the concerns.

**Mr LEO McLEAY**—Some of the evidence we have heard is that, in a year, the whole quota may not have been used. What about the proposal that unused quotas go into a pool? Someone who has caught trevalla as a by-catch can say, ‘There is access to a pool here. I will pay a surcharge and I can land my trevalla.’

**Mr Schaap**—This quota is unused simply because a quota holder has not—

**Mr LEO McLEAY**—Has not fished that—or did not fish it last year—so you would carry it over. Let us say that, last year—I do not know what the real numbers are—of 20,000 tonnes of trevalla only 15,000 were caught. You would say that for this year there is a 5,000 carryover of trevalla which is available in a pool. Anyone who lands by-catch pays a surcharge and they can land that by-catch out of the pool quota.

**Mr Schaap**—I think that that sort of scenario works only when you are having shortfalls on harvesting. To introduce that sort of arrangement, what you are actually doing is affecting the market for quota. I am not sure that it is a good idea for government, through AFMA or any other authority, to disrupt the marketplace for quota. For example, if you did have a pool of by-catch available for trevalla, that would obviously have an impact on trevalla quota price.

It is an idea I have not thought about in the past, but that may well have some significant impacts on the way that people trade in quota and the security of the individual participants who hold quota, in terms of having their access privilege devalued as a consequence of having that pool remaining. Taking that approach may well have some merit, but I think there are a lot of issues there that you would have to cover properly before you embarked on it.

**ACTING CHAIR**—You set up a lot of problems, Mr Schaap. Do not give us all the solutions.

**Mr ANDREN**—It strikes me, though, that that may turn a by-catch into a target catch for that particular season and quickly overrun the carryover pool. The other evidence given to us was that total allowable catch perhaps should be the sole criterion. How do you view that?

**Mr Schaap**—In terms of the competitive TAC? Competitive TAC is probably the worst management measure you can adopt in any fishery, almost, of any description. What it essentially does is that it actively encourages, in the strongest possible way, excess capitalisation. It leads to this ‘race for the fish’ scenario, with people investing in bigger, faster, more capable vessels. It is the last thing you want to do if you want to have any efficiency of exploitation or any certainty within the industry about what its investment horizon looks like. Without that, people will make poor investment decisions and they will be inclined to spend far too much.

**Mr LEO McLEAY**—Then they will go broke. So what? That is the investment decision they make.

**Mr Schaap**—As I said, if you accept the view that exploitation of fisheries resources should be done in such a way as to maximise benefits to the community, there is little benefit to the community associated with allocation—or misallocation—of resources capital towards a fishing operation, only to see it go broke. That really is not, I would have thought, an optimum outcome from fisheries resource management. That is

not to say that you can hold everybody's hand and protect every investor in a resource exploitation business, but by the same token you would not want to set up in advance a scenario that will inevitably lead to some going broke and the rest spending too much.

**ACTING CHAIR**—You were talking about the total accountable catch, were you?

**Mr Schaap**—A competitive total allowable catch—it is not allocated; people are just competing for a share of the TAC.

**Mrs STONE**—We do not have that situation here?

**Mr Schaap**—We do not.

**ACTING CHAIR**—Is that what you were basing your last argument on? I am sorry, I misheard.

**Mr Schaap**—We do not see it here and we should not see it.

**Mr ANDREN**—That is the Le Mans scenario.

**Mr Schaap**—Yes, that is a pretty reasonable analogy.

**ACTING CHAIR**—That is a car race, is it? Are there further questions?

**Mr LEO McLEAY**—You fire a gun; out they go, catch the fish; when they have got them they come back! If you had that system, though, would it not mean that cautious investors would probably not invest? You would not ever be able to bank on what your return would be, so you would be more likely to have smaller operators.

**Mr Schaap**—Certainly, the smaller the operation the less somebody has to lose. You might well expect to see an influx of smaller operators but, inevitably, they will all be competing with each other. Just as in a formula 1 race, they will spend more and more money on getting a faster engine. They will do exactly the same thing with their fishing boats—they will increase hold capacity, they will increase sea keeping ability, they will increase engine size, gear size will go up—all those sorts of things.

The other problem with competitive TAC is that it gives you a very, very unpredictable and unbalanced distribution of catch landing. For example, if you had a TAC that could be landed by the fleet in one month, you might well find a product that previously held a value over the year of some \$6 a kilo dropping to \$1.50 a kilo. That again is absolutely contrary to the notion of maximising the benefit to the community from the exploitation of a resource, because the harvesting strategy itself devalues the resource. That is quite a silly thing to do.

**Mr LEO McLEAY**—So you do not like the free market?

**Mr Schaap**—A free market in the sense of—

**Mr LEO McLEAY**—That is what that is. It is a free market.

**Mr Schaap**—Yes, and that is why the world's fisheries are in such a sorry state. The sad thing is that Australia is probably more advanced in fisheries management than the vast majority of the rest of the world. That does not say much for the rest of the world, unfortunately. A lot of them are operating essentially on a fairly open competitive basis and stocks are declining all round the world as a consequence.

**ACTING CHAIR**—Do you know much about the world fishing situation? Do you know much about the North Sea and the cod situation? There must be an enormous amount of overcapitalisation there these days.

**Mr Schaap**—The problems in a lot of the big fishing nations around the world are not just that fishing activity is not adequately constrained and therefore we have significant overcapitalisation and excess effort and excess catch. Another problem is that, worldwide, the capture of fish is actually very heavily subsidised by governments. Indeed, only a decade ago, an FAO report demonstrated that the capture of fish is subsidised by some billions of dollars worldwide. So it is costing billions of dollars to taxpayers around the world to catch fish. There is no net positive return.

**ACTING CHAIR**—Is that through the science or through management or what?

**Mr Schaap**—Science and management costs contribute to part of that but, in the cases that I am particularly thinking of, it is actual subsidies. There are income subsidies for fishermen, there are boats subsidies, there are all sorts of breaks for participants in fishing industries.

**ACTING CHAIR**—Do you know if any of this is in the World Trade Organisation debate—the last round of trade negotiations?

**Mr Schaap**—I think inevitably it will play more and more a part, but I am really not qualified to comment on that.

**ACTING CHAIR**—I think this committee is thinking about putting an application to the minister that we should go and have a look at the North Sea. But we are not confident of receiving the cash flow to allow us to do that!

**Mr Schaap**—The old motto applies there.

**Mr LEO McLEAY**—The Japanese are reducing their fleet by half; maybe we should go to Japan, too?

**Mr Schaap**—Can I suggest that it is a good idea to be quick while stocks last.

**ACTING CHAIR**—Mr Schaap, thank you very much for your evidence. It has been very good evidence and we appreciate your time and effort.

**Mr LEO McLEAY**—Just one more question before you go: does the Tasmanian government have a preference for seeing investors in the market or just individual fishermen in the market?

**Mr Schaap**—That is something that depends very much on the political complexion of the day. The current situation is that the Tasmanian minister has made it very clear. I think a good example is that we are considering moving towards a quota management system in our lobster fishery, and one of the requirements for that management system essentially will be to confine quota holdings to fishing operations rather than to third party investors.

The other side of that coin, however, is that our major quota managed fishery in the state is our abalone fishery, and there we have quite explicit measures in place to provide for third party quota holdings. So it is a bit of a mixed bag in Tasmania.

**Mr LEO McLEAY**—What is the biggest part of that catch then—investors or private fishermen?

**Mr Schaap**—In the case of abalone where we provide for investors, the only people who can actually catch fish are licensed divers. What happens is that the investors hold the quota units and they have to assign those units to a diver. So the investors have no part in the industry other than to hold the units and choose who they assign them to. The licensed divers are the only ones who can actually do the harvesting.

**Mr NAIRN**—In deciding your quota system with lobster, how are you going to allocate quota there? Are you going to go back over a number of years? Are you going to go back 10 years and randomly choose three years to decide on who gets what, or are you going to look over a fairly long period of time? And can I give you some advice, have a look at the problems that AFMA have created and do not repeat them.

**Mr Schaap**—Unfortunately there are plenty of places for us to look to find out about the problems of quota allocation, and it is a bit unfair just to say, 'Look at the problems AFMA has had,' because other people have had similar problems.

**ACTING CHAIR**—The Tasmanian fishing authority.

**Mr Schaap**—We do have concerns about how the allocation process is actually to be done. There is a range of options before us, including right through the continuum from complete reliance on catch history to reliance only on people's pot holdings. A lobster fishery is a little different from some of those others in the sense that there is already a basis for the access privileges that people hold. They purchase a certain number of pots to get into the fishery. That is what people bought to get access; therefore, it might be reasonable to allocate quota on the basis of what they actually paid for.

However, there is quite a difference in how those pots have been used between individuals. Some people have taken a lot of lobsters; some people have taken a small amount of lobster. So how much recognition do you give catch history? We are now going through the process with a fishery advisory committee to try to resolve which is the appropriate tool to use. Unfortunately, there is no way of resolving that which does not leave somebody aggrieved at the end of the day. I guess the objective is to try to minimise the extent that that does not prejudice the success of implementing a quota system in the first

instance. And yes, we will certainly be looking to avoid some of the mistakes we have seen elsewhere.

**ACTING CHAIR**—Thank you, Mr Schaap.

Resolved (on motion by Mr Nairn):

That, pursuant to the power conferred by paragraph (o) of standing order 28B, this committee authorises publication of the evidence given before it at public hearing this day.

**Committee adjourned at 11.10 a.m.**