



WAFIC WESTERN AUSTRALIAN
FISHING INDUSTRY
COUNCIL INC

29th January 2023

Ms Carolyn Walsh & Mr John Harrison
Independent Reviewers
DCV Safety Review Panel
GPO Box 594
Canberra, ACT 2601

Dear Ms Walsh and Mr Harrison,

**Independent Review of Australia's Domestic Commercial Vessel
Safety Legislation and Costs and Charging Arrangements**

Release of Consultation Aid – Costs and Charging Arrangements – Phase 2

The Australian Government has commissioned an independent review to consider whether Australia's legal framework regulating the safety of domestic commercial vessels is fit for purpose (Phase 1).

The review is also to consider whether this regulatory framework is being delivered efficiently and effectively and to consider options for future cost recovery arrangements (Phase 2).

The WA Fishing Industry Council (WAFIC) is the peak industry representative body for the commercial fishing, pearling and aquaculture industries in WA. In total our membership covers over 1200 vessels and 4,000 individuals and the industry produces in excess of \$800 million GVP per annum.

WAFIC notes this current consultation process is the second of two planned phases and that the purpose is to seek feedback from industry on costs and charging arrangements for Australia's framework regulating the safety of domestic commercial vessels (DCVs).

The WAFIC submission (Attachment 1) is responding to the release of the Consultation Aid Costs and Charging Arrangements (Phase 2) by the Independent Review Panel in November 2022 and seeking responses by 27th January 2023.

WAFIC recognises that Phase 2 will deal with cost recovery arrangements for AMSA service delivery activities, however, we must make clear our view that much of what is determined and discussed in relation to legislation and supporting regulations (Phase 1) will have flow on effects when determining the level of costs (and recovery of those costs) associated with service delivery.

This is especially the case with the recommendations to remove the grandfathering provisions currently in place. *WAFIC has taken further advice from industry members on this matter and has encapsulated these in our Phase 2 submission in response to the Panel's Question 9 of the Phase 2 consultation aid on economic impacts of Phase 1 Interim Report recommendations.*

This submission is the result of WAFIC seeking responses from stakeholders by circulating the Review Panel's Consultation Aid (Phase 2) to the commercial fishing, aquaculture and pearling industries throughout Western Australia through our range of communications tools (website, newsletter, social media, direct mail, online and face-to-face meetings).

WAFIC notes that stakeholders have had the opportunity to make comment to the Review Panel through written submissions and directly with the Panel, through online and face-to-face consultation.

On behalf of our members, WAFIC takes this opportunity to thank the Independent Review Panel for the consultation arrangements for Phase 2 applied to date.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Darryl Hockey', with a stylized flourish at the end.

Darryl Hockey
CHIEF EXECUTIVE OFFICER

Independent Review of Australia's Domestic Commercial Vessel Safety Legislation and Costs and Charging Arrangements

Subject: Release of Consultation Aid - Costs and Charging Arrangements (Phase 2)

Document: Submission from WA Fishing Industry Council – January 2023

1. Opening Comments

The WA Fishing Industry Council (WAFIC) is the peak industry representative body for the commercial fishing, pearling and aquaculture industries in WA. In total our membership covers over 1200 vessels and 4,000 individuals and the industry produces in excess of \$800 million GVP per annum.

WAFIC has been a strong supporter of the overall objective of establishing a single, national, marine safety service delivery model to assist the Australian government and the wider domestic commercial vessel (DCV) industry (including the fishing, pearling and aquaculture industries) to operate in a more efficient and cost-effective manner while maintaining safety.

The December 2012 Council of Australian Governments (COAG) National Compact on Regulatory and Competition Reform, committed governments to '*free[ing] the business environment from unnecessary regulation*'. This document sets out that '*Businesses benefits via lower costs and reduced regulatory burden*' (p1)¹

The stated overall objectives of the COAG Inter Government Agreement (IGA) established when entering this national harmonised regulation approach to assist the operations of the Australian marine industry were to:

- operate in a more efficient and effective manner;
- reduce red tape and thus costs; and
- improve marine safety.

At the same time the governments (state and commonwealth) agreed that AMSA's regulatory and service delivery functions were to be funded by the domestic industry consistent with the Australian Government's cost recovery policy and the Commonwealth Cost Recovery Guidelines.

The AMSA catchcry to industry at the time was '*AMSA will align its compliance and enforcement approach on a 'trust-and-verify' model, with a focus on high-risk, lower-compliance sectors and operators. In parallel, AMSA will be allowing operators who have demonstrated that they take responsibility for safe operations to get on with their business with minimal dealings with the regulator.*' (emphasis added)

The estimated cost of AMSA delivering the National System in August 2016² was proposed to be approximately \$20-23 million per annum against the estimated existing management costs across the states and territories (to deliver these services as delegates of AMSA) of \$40 million pa.³ This reduction in cost to deliver services to industry was claimed by AMSA to be achieved through the streamlining of the administrative processes behind the delivery of services.

Up to that time each state and territory recovered the cost of delivering their services to varying degrees. For example, some jurisdictions recovered less than 5% of their costs, with the rest subsidised by taxpayers. This meant that the introduction of any National System

¹ December 2012 Council of Australian Governments (COAG) National Compact on Regulatory and Competition Reform <http://www.coag.gov.au/node/486>

² Cost Recovery Implementation Statement – Draft for Consultation - National System for Domestic Commercial Vessel Safety – (August 2016)

³ This figure of \$40 million was disputed at the time by states and territories and no real confirmation of the number was ever forthcoming to WAFIC's knowledge.

levy would affect each operator differently, depending on the jurisdiction under which they were previously regulated and their type of operation.

On this basis one can understand the strong interest industry had in establishing the single, national marine safety regulator and associated legislative framework.

WAFIC believes that application of a fully integrated risk based framework⁴, appropriate tweaking of the current legislation and supporting regulations, development of support explanatory documentation and active participation of stakeholders with AMSA in determining the national regulator's service delivery activities, will be a significant step to driving the efficiencies and safety objectives sought from the initial COAG IGA.

WAFIC believes that the focus on improving the safety culture within industry through a risk-based management framework will increase DCV owner and operator responsibility and self-audit for marine safety reducing the regulatory and compliance 'touch' of AMSA to their vessel operations and thus reduce their costs under any cost recovery policy.

This has not happened to the extent expected to date for several reasons set out below.

In bringing together the single national maritime safety management framework, several decisions were made to make the transition for industry as acceptable as possible and balance cost impacts with the imperative to create national consistency in vessel safety management. It was understood by industry and government that establishing a national system would not be perfect from the start and that trying to mesh together the outcomes from seven separate state/territory jurisdictions into a single national law and management regime was always going to take time to settle.

It would be naïve to expect all issues to be fully covered and effectively managed by AMSA within this first five year period of full AMSA management - just as it would be unreasonable to expect all operators of domestic commercial vessels to have fully embraced the agreed principle of greater '*self-responsibility*' for safety as part of driving the incentives for more efficient and cost effective marine safety management.

WAFIC does appreciate the decision of federal and state governments in 2017 to support industry through the transition to the new National Law framework with funding support, initially over a 10 year period, with the early years resulting in no levy payments by industry pending the settling of the new regime and a review of the costs and charges arrangements.

The Federal Government then extended this transition support in 2021-22 with an additional \$11 million to provide continued financial relief and certainty for industry (ie no levies) during the challenging period of the COVID-19 pandemic. At the time the Government announced that this commitment:

- allows the Government to defer the planned review of costs and charges for the National System until mid-2021; and,
- ensures AMSA has funding in place to deliver safety regulation while the deferred review takes place.

We are now at the point, in late 2022, where that review of costs and charges arrangements is finally taking place.

⁴ See WAFIC Submission (Final) - Independent Review of Australia's Domestic Commercial Vessel Safety Legislation and Costs and Charging Arrangements Release for Consultation – Draft Interim Safety Report (Phase 1) – 30th November 2022

What is the nature of the marine safety costs that industry currently incur?

The Panel has sought an indicative estimate of the current annual costs of a DCV operator within industry that relate to AMSA requirements.

WAFIC has sought this information from members but unfortunately given the time of year in which this consultation is taking place (where many companies have staff on leave) we have not been able to get the level of detail across a range of sectors. Some companies were apologetic they could not provide more definite information to directly answer the Panel’s questions but they simply do not allocate costs in the way it has been requested.

However, we were able to secure some understanding of the costs for a Northern Prawn Trawler as set out in the table at Attachment 2. The table shows an annual cost per vessel of between \$36,800 - \$52,300 for the basic/consistent costs associated with maintaining survey. The company has made us aware that the true costs of maintaining safe and reliable vessels extends far beyond this table. For example, to maintain survey requirements the company must ensure main engine reliability, auxiliaries, steering, winches, electrical components – pretty much all refit expenses (excluding capital expenditure) can be linked to AMSA survey requirements in one way or another. The company has kept these costs out of the table for this exercise, but advise that they can be as high as \$250,000 a year per vessel.

Another company operating vessels in the Southern Bluefin Tuna fishery and farm/aquaculture sector advised that there is no definitive cost for survey because they do most of the work inhouse, however as a guide they provided costs from September to December for each period because vessel survey inspection is always at that time of the year and even in a non-survey year they are updating equipment, painting etc to smooth out survey costs as much as possible. This company incurs indirect costs of training, keeping everyone’s First Aid certificate current and employ a vessel manager full time to ensure all compliance is adhered to.

Sep – Dec	Vessel 1	Vessel 2	Vessel 3	Vessel 4	Vessel 5
2018-19	14000	73700	118500	34300	53000
2019-20	4200	22500	31000	46300	79500
2020-21	8700	29600	34700	12800	76600
2021-22	7700	14000	86500	15900	57100
2022-23	2400	105000	44400	72100	44700

Denotes Survey

We also note that the Western Rock Lobster Council submission to your Panel refers to rock lobster fishers advised that annual gear expenses costed a range from \$2,200 - \$2,500 (for lifeboat lease, EPIRBs, first aid box etc.). Then there were ongoing costs for first aid training, safety courses, review of and updates to the vessel SMS. These costs can vary and have therefore not been included in the above estimate. Fishers also made a point of mentioning the lost fishing time (in addition to monetary costs) that are incurred due to AMSA inspections.

What does it cost to run the National Law Framework?

As referred earlier, AMSA proceeded with a consultation review of cost recovery under the National Systems for DCV Safety in 2016⁵.

The consultation documentation circulated at the time set out that ‘*Consistent with Australian Government policy and the Cost Recovery Guidelines, State, Northern Territory and Commonwealth governments agreed to make AMSA the National Regulator for domestic*

⁵ CRIS – draft for consultation - National Systems for Domestic Commercial Vessel Safety (August 2016)

commercial vessels [DCVs]), and that regulatory and service delivery functions are to be funded by the domestic industry.'

At the time AMSA was considering two different models for the introduction of a levy:

- a flat charge per metre of vessel measured length; or,
- a progressive approach, based on a combination of vessel class and measured length.

Within these 2016 consultation documents AMSA also provided a detailed breakdown of the costs of the various service delivery activities across the \$20-23 million annual DCV budget.

It is of interest to note that the Panel states *(on page 3 of the Phase 2 consultation aid)* that *'Available information suggests that the total costs of delivering the National System since 2017–18, prior to when AMSA commenced as the sole National Regulator, have remained relatively stable.' (emphasis added).*

One would therefore expect the annual DCV budget to be sitting around \$20-23 million in 2022/23.

WAFIC notes that the Panel is planning to draw on available information and specialist expertise, as well as consult with AMSA and the maritime industry sectors, to form its view on the efficient costs⁶ of AMSA's current activities under the National Law.

WAFIC would recommend that the tabled budget of \$20-23 million and spread of activity costs within that budget (as outlined during the 2016 consultation process) would be an excellent starting point.

What Are the Costs?

When considering *'who pays the costs'* WAFIC suggests the first step is to determine *'what are the costs?'*

The commercial fishing industry has significant experience with cost recovery through application of the Australian Government Cost Recovery Guidelines (Guidelines)⁷ within the Australian Fisheries Management Authority (AFMA) and several state jurisdictions over time.

AFMA aims to recover all appropriate costs from the commercial fishing industry in accordance with the Australian Government Charging Framework (2015) and Australian Cost Recovery Guidelines (2014) in support of the legislative responsibilities of Commonwealth entities, as detailed in the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

AFMA sees communication with stakeholders is an essential part of developing the Cost Recovery Implementation Statement (CRIS)⁸ for their upcoming budget year. In reviewing the CRIS each year AFMA will seek comment on draft budgets and the CRIS from relevant stakeholders such as the relevant peak industry associations, each of the fishery Management Advisory Committees and other relevant consultative bodies using an activity-based costing process.

This consultation process is important and from an AMSA perspective WAFIC is of the view that this could be carried out through the existing National Safety Committee and Regional Safety Committees industry advisory processes.

⁶ Efficient costs are the minimum costs necessary to provide the activity while achieving the policy outcomes and legislative functions of the Australian Government.

⁷ Australian Cost Recovery Guidelines, Resource Management Guide #304, July 2014

⁸ Australian Fisheries Management Authority, Cost Recovery Implementation Statement (2020/21)

Who Pays the Costs?

Under the AFMA system the Commonwealth commercial fishing industry pays for those costs directly attributable to the fishing industry while the Australian Government pays for any costs identified as more directly benefiting the broader community or where it is inefficient to recover the cost.

In accordance with the Australian Government Charging Framework and the Guidelines a review and analysis of the activities undertaken by AFMA is conducted to determine which of those should be cost recovered. AFMA applies an activity-based approach to enable the agency to determine the costs associated with each activity within the defined key activity groups.

The AFMA key activity groups provide an overview of the activities included **and, most importantly, the beneficiaries of those activities** to enable determination of who is responsible for the costs associated with each activity.

An example of the application of the Guidelines can be found in the AFMA Cost Recovery Implementation Statement for 2020/21 (CRIS)⁹

The CRIS applies the underlying principle of cost recovery policy that AFMA should set fees and charges to recover all the costs of services provided where it is efficient and effective to do so, *where the beneficiaries are an identifiable group* and where charging is consistent with Australian Government policy objectives.

If there is no impediment to charging for an activity group and the beneficiary that creates the need for the activity is identifiable they should be charged the majority of costs for the activity through a levy or a fee-for-service. However, for example, in the case of fisheries data collection the commercial fishing industry **has not been identified as the sole beneficiary of all of the activities in this activity group** and therefore the costs for the activities in this group will be recovered proportionally between industry and the Government.

The AFMA compliance activity group is comprised of compliance risk assessments, investigations and enforcement actions. It also incorporates, with respect to fisheries compliance, cooperation, consultation and the exchange of information with state, territory and overseas bodies having similar functions to AFMA. The scope for non-compliance in fisheries is broad, but not solely attributable to the members of the commercial fishing industry. The activities in this key activity group contribute to the orderly management of the fishery as a whole to benefit the broader community and are therefore government funded.

The policy activity group includes providing policy advice and support to the Parliament, Ministers and relevant government departments and agencies. The activities in the group include researching, planning and advising on proposals for changes to legislation, whole of government programs and arrangements between Commonwealth and State jurisdictions. Examples of these types of activities include answering Ministerial and Parliamentary questions, the preparation of the budget and associated reporting documents and the provision of the statutory reporting requirements. This is generally funded by Government.

AFMA also provides input to the Australian Government's position in international fisheries forums, bilateral and other multilateral agreements and bodies. This input includes the provision of technical advice and research results supporting government policy, and statutes leading to sustainable management of straddling and highly migratory fishing stocks. The activities in this key group are primarily undertaken as a service to the Australian Government and broader Australian community and as a result this activity group is government funded.

⁹ AFMA Cost Recovery Implementation Statement for 2020/21

Costs for activities are composed of direct costs, indirect costs, overheads and capital costs.

A review of which group(s) uses and/or benefits from each activity and applies an approved method to allocate the costs proportionally.

Example of Activity Cost Allocation

As noted earlier in the submission WAFIC notes that the Panel states *(on page 3 of the Phase 2 consultation aid)* that ‘Available information suggests that the total costs of delivering the National System since 2017–18, prior to when AMSA commenced as the sole National Regulator, have remained relatively stable.’ *(emphasis added).*

Given the August 2016 CRIS indicated the annual DCV budget to be sitting around \$20-23 million then it would be fair to say the figure is similar in 2022/23.

WAFIC assessed the breakdown of service delivery activities in the annual budget contained in the August 2016 CRIS consultation documents provided by AMSA by applying the Australian Government Cost Recovery Guidelines which sets out that it is inappropriate to cost recover some government activities¹⁰ such as:

1. policy development
2. drafting legislation and regulations
3. development and communicate/publicise general advisory material
4. provision of advice to government, Minister and Parliament,
5. law enforcement, (compliance and enforcement)
6. cost recovery may also be contrary to intended policy outcomes, such as the provision of community services or industry support

WAFIC allocated the costs into four (4) categories in the table below:

- Not do at all – these are activities that AMSA should not be involved with;
- Recover (direct) – these costs should be charged direct to the user of that service;
- Recover (general) – these are costs that should be recovered by a general levy;
- Not Recover - these costs are deemed inappropriate to recover

(The number in bracket X(3) refers to item on the list above from the Australian Government Cost Recovery Guidelines).

Activity	Not Do At All	Recover Direct	Recover General	Not Recover	2019 Budget (\$m)
<ul style="list-style-type: none"> • Respond to calls & emails • Assist completing applications • Provide website assistance 		X	X	X (3)	\$4.46
<ul style="list-style-type: none"> • Compliance, enforcement, investigate • Respond to accidents & incidents • Support coronial and other inquiries • On water off water compliance • Maintain agreements with jurisdictions 				X (5) X (5) X (5) X (5) X (2)	\$5.57
<ul style="list-style-type: none"> • Provide advice to industry • Deliver safety training workshops 	X			X (3)	\$2.15
<ul style="list-style-type: none"> • Policy/Standards development CoO • Policy/Standards development CoS • Technical assistance to industry 		X		X (1) X (1)	\$2.37
<ul style="list-style-type: none"> • Corporate & administrative support • Management of levies • Business process improvement 			X X X		\$1.50

¹⁰ (Item 12, p6 - Australian Government Cost Recovery Guidelines Resource Management Guide No. 304 July 2014 – Third edition)

• General regulatory & policy advice			X		\$1.19
• Maintenance regulatory framework				X (2)	
• Domestic vessels management			X		\$0.93
• SMS verification	X				\$0.90
• Risk management advice	X				
• Qualls policy/standard development			X	X (1)	
• Technical advice re qualifications					\$0.70
• Audit/oversight training organisation		X			
• Maintain agreement with ASQA				X (6)	
• National system IT infrastructure			X		\$1.78
Total budget					\$21.55m

After applying this assessment (and a conservative cost allocation to activities) WAFIC was of the view that at least \$12.77m can be removed from the costs to be recovered by general levy as follows:

AMSA Not do at all

- Deliver safety training workshops (\$1m) – private safety training services available.
- SMS verification (\$450k) – responsibility to have appropriate SMS rests with owner. Private SMS advisors available to assess against AMSA guidelines for SMS content.
- Risk management advice (\$450k) – private risk management advisors available.

Charge Direct to User

- Assist completing applications (\$1m) – charge hourly rate for advice.
- Technical assistance to industry (\$700k) – charge hourly rate. Private technical assistance available.
- Audit/oversight training organisation (\$150k) – charge RTO direct like any audit process.

Inappropriate to recover – as per Australian Government Cost Recovery Guidelines (see list above)

- Provide website assistance (\$150k) – (Item 3) development and communicate/publicise general advisory material.
- Compliance, enforcement, investigate (\$5.57m) – (Item 5) law enforcement, (compliance and enforcement).
 - Respond to accidents & incidents
 - Support coronial and other inquiries
 - On water off water compliance
 - Maintain agreements with jurisdictions
- Provide advice to industry (\$1m) – (Item 3) development and communicate/publicise general advisory material.
- Policy and standards development for CoO & CoS (\$1.6m) – (Item 1) policy development.
- Maintain regulatory framework (\$500k) – (Item 2) drafting legislation and regulation.
- Qualifications policy and standard development (\$100k) – (Item 1) policy development.
- Maintain agreement with ASQA (\$100k) – (Item 6) provision of industry support.

Funding the National System

The Panel correctly states that since 2018, when AMSA took over full service delivery of the National System, the largest source of funding for the National System has been from the Australian Government, supplemented by contributions from state and territory governments.¹¹ The Panel concludes this funding has limitations in that it is susceptible to competing public priorities and can be potentially less secure.

WAFIC understands this susceptibility but reminds the Panel, and government, that it has been the change to AMSA (as the single regulator), the delay in carrying out this review and COVID, that has seen the funding sourced as it has been to date until some continuity of the service delivery was fully transitioned.

WAFIC agrees with the Panel view (*page 4 of consultation aid*) that any approach to funding the National System needs to be *'adaptive and flexible'* and provide reasonable certainty that the National System will be adequately resourced to realise safety and other benefits, now and in the future. Adaptability and flexibility is also important to ensure the AMSA service delivery is efficient and cost effective and can be adjusted easily to accommodate changes in the operating environment.

WAFIC is keen to ensure that there is not a set-and-forget approach to the AMSA service delivery activities and that there is an agreed formal consultation arrangement in place for stakeholders to assist AMSA through regular review and recommendation of changes to the annual service delivery activity program. This supports the industry view that 'user pays/user has some say' approach to cost recovery.

This position is supported by the Australian Government Cost Recovery Guidelines that set out that *'Stakeholder involvement will generally result in better design, planning and implementation of government activities. Successful stakeholder engagement is most likely to occur when it is well planned and when government entities enter into a meaningful dialogue with stakeholders, consider their views and, where appropriate, take action'*.

WAFIC supports the Panel position that a considered funding approach will:

- promote equity in who bears the reasonable costs of the National System;
- improve the efficiency, productivity, and responsiveness of AMSA's activities and accountability for those activities; and,
- resolve long term uncertainty around AMSA's funding and charges for AMSA and industry.

However, WAFIC would add one very important point to the list above:

- Ensure the involvement of the stakeholders paying the costs in the annual activity setting process to ensure active participation in establishing the AMSA DCV budget.

Australian Government Charging Policy

WAFIC notes the reference to the Australian Government Charging Policy Framework and Cost Recovery Guidelines.

WAFIC has several sectors of our industry actively involved with Commonwealth fisheries where this policy framework and guidelines are applied through the Australian Fisheries Management Authority (AFMA). There is a clear definition as to what is funded by government and what is recovered from fee-for-service charges or through general levy.

¹¹ See Transport and Infrastructure Council, *National Marine Safety Regulation* (Communique, 6 December 2017) available [here](#). The Australian Government extended funding for the National System in the 2020–21 Budget. See AMSA, Update of Cost Recovery Implementation Statement for 2020–21, page 5 (16 November 2020) available [here](#).

The Australian Government's overarching cost recovery policy promotes *consistent, transparent and accountable charging* for government activities and supports the proper use of public resources.¹²

WAFIC supports the Panel view that cost recovery should only occur where it is efficient and cost efficient.

Comparisons of Funding Similar Statutory Authorities

WAFIC is of the view that there may be several currently included service activities that do not need to be delivered by AMSA into the future but that can be delivered by private enterprise (eg safety training). We are also confident that once industry better understands the cost implications of some of services to be delivered in the initial phase by AMSA they can make decisions whether they continue to pay for the service delivered by government or achieve the same outcome through other methods not involving AMSA (eg SMS education).

WAFIC directs the Panel to the successful experiences in service delivery setting and cost recovery negotiations between the Australian Fisheries Management Authority (AFMA) and the fishing industry over many, many years. AFMA has learnt to trust industry and present their annual budget activity setting to an open and transparent process including industry which has resulted in smarter ways to do things and an increased level of co-management by industry.

WAFIC is also strongly of the view that there is a significant component of 'public good' within the services delivered under the National System (similar to those delivered through aviation safety under CASA and sustainable fisheries management under AFMA) and these services should be recognised as 'government responsibility' from a cost recovery perspective. The DCV industry provides public good and community benefits such as sustainable supply of protein (fishing), tourism services, availability for emergency services and efficient and effective transportation processes that should be recognized in the cost recovery model.

WAFIC understands that statutory authorities, similar to AMSA, are significantly supported through continuing government funding. For example, it is understood that the Civil Aviation Authority currently receives \$18m/pa from government justified as covering the public good safety aspects of that authority's activities. WAFIC would argue that marine safety delivered through AMSA is very similar to air safety in relation to public good.

WAFIC also understands that the Railways sector has been working through similar harmonization processes that applied to marine safety but government has made the decision not to move that sector to full cost recovery until 2034.

AMSA should obtain a permanent subsidy from the Federal Government of \$10m (minimum) in consideration of the 'public good' component inherent in marine safety services and in recognition of the economic benefit that the entire domestic maritime industry provides Australia.

Levy Model

A primary motivating factor for industry when supporting the move to AMSA as the single national regulator was that during discussions in the mid 2000s the focus was on a risk-based approach encouraging self-responsibility for safety by vessel operators with AMSA providing a trust and verify compliance system.

¹² *Public Governance, Performance and Accountability Act, s8*

The key factor within this approach was that the better you performed as an individual operator the 'less touch' you incurred by AMSA and the less costs you would incur through benefitting from extended vessel survey approvals, longer term licence approvals, decreased inspections etc. This approach was also expected to allow AMSA to focus their limited resources on the areas of higher safety risk.

Pushing the largest amount of service delivery activities into the fee-for-service charging system ensures that those who use the services the most will pay for the services.

WAFIC proposes a combination of levy formula incorporating:

1. a flat rate per metre of vessel length;
- +
2. a tiered level for inspection/audit by Class.

1. Flat rate per metre of vessel length.

There will always be costs within a government agency that are impossible to compartmentalise or it is simply inefficient to do so. It is WAFIC's view that these costs should be minimised through consultation and careful assessment of service delivery activities and then be allocated by a flat rate per metre of vessel length.

This approach ensures that all vessels contribute to the baseline costs of the agency regardless of whether they require inspection/audit.

2. Tiered level for inspection/audit by Class

WAFIC has always supported a tiered approach similar to that applied to export processing premises whereby an operation is audited against a range of criteria and assessed to have reached a specific level of competence or quality. Based on your achieved level you would then be inspected/audited less (eg every 5 years) or be able to operate in way that reduces costs or increases your efficiency (eg longer competency approvals). Alternatively, should you be assessed at a lower level you will incur a greater amount of scrutiny through inspections and audits (eg every year) for which you pay the cost. The obvious incentive is to move to a higher level (or maintain that high level) so as to reduce compliance inspection and audit imposts and thus reduce costs.

At the same time the improvement in any operation to allow a move to a higher level is only achieved by improving the safety management performance of a vessel's operation thus meeting the third pillar of the COAG IGA.

The criteria to be applied can be different depending on the class of vessel so as to recognise the inherent safety factors in that class (eg carrying passengers) and still allow 'high achieving' operators within in each class to be rewarded and vice versa.

Some WAFIC members were of the view that the maturity of different industries is important to consider. It can be rationalised that emerging aquaculture sectors with high capital costs and protracted positive cash-flow projections be subject to partial recovery of costs. These industry groups support a levy based on gross annual turnover as most appropriate for the aquaculture sector applied commensurately to the industries level of risk. For example application of levies to industries operating in closed waters (almost similar to estuarine fishers) should be less given they are much less likely to use the services of AMSA. Similarly, some enterprises such as shore-based abalone culture use vessels to service intake/outlet infrastructure but may be unlikely to interact with AMSA. They promote the need for some measure based on number of vessels or number of sea-days to commensurately apply the levy.

Independent Review Panel's Phase 1 Draft Interim Report Recommendations - Impact and Resourcing Implications

1. Removing Grandfathering Provisions

WAFIC made significant comments in our Phase 1 final submission to the Panel in relation to the impacts of winding back grandfathering provisions.

We do emphasise that we do not support the wholesale removal of the grandfathering provisions.

Where is the evidence to remove or phase out grandfathering provisions?

AMSA has done a very good job in all the challenges of adopting the National System through deregulation where justified, risk management in general and cost management.

They have taken an *evidence-based approach*.

There have been three government inquiries into AMSA's performance since 2017 - by the Productivity Commission, by a Senate Committee and now an Independent Panel Review. All have put some emphasis on grandfathering but none have presented any evidence to support recommendations. The inquiries have referred to recent tragic fatality events and the subsequent Coronial Inquiries but none of those produced any **evidence** of specific problems created by grandfathering. They have all proceeded to assume that the concept must produce unsafe outcomes and promote a blanket solution – remove grandfathering.

Grandfathering of boats and certificates of competency is a core part of a fisher family stability. Fishery management changes can be stressful and often hard for a fisher to cope with. However, their boat and their credentials are the very stable thing they most understand and depend on. AMSA and government in general changed their world in 2013 with the introduction of the National System but underpinned stability with the COAG grandfathering guarantees. It was changed in 2018 to make any transition more flexible. To now change it again – *breaking the 2013 COAG guarantee* – would also create a major new level of unjustified stress.

Despite the phasing proposal, large numbers of currently qualified crews would not choose to renew their basic qualifications. Some point to the record entrants to maritime training as replacements but the problem is that large numbers of those graduating are going to the new, rapidly expanding maritime industries such as windfarms, offshore oil/gas operations, and marine aquaculture. It is unrealistic to suggest that Australia could even replace the numbers who would leave, let alone service the expanding industries competing for skilled workers. Instead of the end of grandfathering leading to greater safety, it would logically lead to less experienced crew and a greater safety risk.

It would seem unrealistic to assume the Commonwealth Government (or State Governments) will satisfactorily compensate loss of boats and certificates through a specific Scheme and/or the previous boat-building subsidy. This suggestion is made without quantifying the cost and assessing whether there is boat-building capacity in Australia to achieve re-introduction of the subsidy.

WAFIC supports that government follow normal process to produce good public policy and that before the draft Report on the grandfathering sections is finalised that the Panel:

- Produces actual evidence for the fishing and aquaculture industry as to:
 - The extent of grandfathering of both boats and qualifications.
 - Exactly where grandfathering has proved a safety problem.
 - Where fishing/aquaculture boats/certificates fit in the DCV total incidents and

risk profiles.

- Ensures the analysis in (dot 1) clearly identifies any regional and operating differences between classes of vessels.
- Ensures the analysis estimates the actual cost of phasing out grandfathering – rather than general statements on what financial measures might be applied.
- Recognises that there is a serious shortage of formally (certificated) qualified personnel for fishing boats and provide recommendations on how the industry can overcome this if at the same time there are major (inevitable) departures from the industry due to removing grandfathering.

2. Risk-based Regulatory Framework

WAFIC supports greater application of this approach which coupled with the incentive based tiered inspection/audit proposal by WAFIC in this submission will see industry strive to achieve safety improvements while incentivised to reduce costs and increase efficiency.

3. Improve Operations Efficiency between AMSA and Workplace Safety agencies

WAFIC supports the Panel's suggestions in this area. Streamlining inspections, removing duplicate regulatory impost and governance separation will see economic benefits to industry through less time in port and responding to multiple regulators.

4. 'High risk' DCVs to comply with the Navigation Act

WAFIC is strongly of the view that the National Law is more than capable of managing all DCVs regardless of operational complexity and that there is no basis upon which any DCVs should transfer to the Navigation Act as recommended by the Panel.

This would have a significant impact on a vessel, its operation and associated costs for no material safety gain.

5. Increases in Offences Penalties

WAFIC was not aware that there are currently proposed amendments to the National Law to align the offences and penalties with the Model WHS Law in place but held up by some states not yet adopting model WHS laws (ie Vic).

As an industry representative body WAFIC has difficulty in supporting increases in penalties. It would appear that our views on this matter are superfluous anyway given the proposed AMSA amendments are already 'sitting in the wings' as set out in the Panel's report.

As with other proposals in the Report, we would expect that any recommendation to increase penalties and offences is based on available relevant evidence that doing so will act as an increased deterrent or does in fact undermine the effectiveness of AMSA as a Regulator as claimed in the Panel's Finding 5.

6. Expanding Australian Transport Safety Bureau to include DCV safety incidents

WAFIC supports the concept in the Panel's Finding 7 that expanding the ATSB role to include DCV safety incidents would provide for an independent review of systemic safety issues that other entities cannot, or do not consider, including the regulator.

WAFIC remains adamant that any move to a new process, such as the ATSB, requires a close examination to understand the costs involved and how those costs are to be attributed. Consideration of existing arrangements in the aviation and rail sectors may assist in setting this out during Phase 2 of the Review. WAFIC supports the Panel's recommendation 6 that the ATSB should be funded by the Australian Government to undertake a no-blame investigation program sufficient to support the identification of systemic safety issues.

7. Mandatory pre-entry requirement for crew on a DCV.

WAFIC will not support any proposals to create any 'mandatory' pre-entry requirement for crew on a DCV. Members were cautious in regard to the Review Panel's view that the 'portability' of experience, skills, training and qualifications across sectors could be enabled by a 'white card' or equivalent concept.

The disparate nature of fishing makes finding crew very difficult and the potential lack of 'qualified' persons in any region will have a significant economic impact from loss of time at sea. Industry strongly supports the 'on-the-job' training approach applied within industry for many years and now supported by the greater implementation of the SMS regime inclusive of inductions and emergency preparedness.

Members supported the concept of a skills and experience passport be further investigated but were strongly of the view that it not be a 'mandatory requirement' for entry to the industry. This issue should form part of the existing review of Marine Order 504.

ENDS

Attachments

1. Australian Fisheries Management Authority, Cost Recovery Implementation Statement (2020/21)
2. Email from NPF trawl company with breakdown of safety costs.