

## Chapter 5

### Environmental planning and regulation of the fin-fish industry

5.1 The environmental planning and regulatory regime for the fin-fish industry is outlined in chapter 2 of this report. This chapter examines this regime in greater detail by addressing issues related to the adequacy of planning and regulation; independence of decision making; the role of the Marine Farming Planning Review Panel (the Panel); and lack of integration of the planning system.

#### Adequacy of the environmental planning and regulation

5.2 Mr Chris Dockray, Chairman, TSGA, highlighted the importance of the regulatory system for the fish-farming industry. He stated:

...an efficient, predictable and accountable regulatory system is required in the industry; not only for public confidence, but also for investor confidence. We consider that the regulatory framework is adequate and sufficient...we believe that we have a sound and transparent working relationship with the government and our regulators.<sup>1</sup>

5.3 Industry stakeholders indicated that they are required to comply with the provisions of nearly 70 Commonwealth and Tasmanian Acts and 672 regulations. The Tasmanian Seafood Industry Council commented that the regulatory framework for fin-fish aquaculture in Tasmania is 'one of the most comprehensive and stringent frameworks developed globally'.<sup>2</sup> The Council added:

At a workshop on environmental planning held in conjunction with the World Aquaculture Conference Adelaide 2014 there was acknowledgement from all participants that the system developed in Tasmania could be used as a blueprint in other jurisdictions.<sup>3</sup>

5.4 In addition to statutory obligations, the TSGA noted the industry participates in, or is directed by, a number of Commonwealth and state policies and voluntary programs such as the Tasmanian Salmonid Health Surveillance Program.<sup>4</sup>

5.5 The committee was advised that, according to industry calculations, the cost of compliance with the regulatory regime is high: \$0.04/kg or \$1,720,000 per annum and increasing. The TSGA added:

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1 Mr Chris Dockray, Chairman, Tasmanian Salmonid Growers Association, *Committee Hansard*, 15 July 2015, p. 27.

2 Tasmanian Seafood Industry Council, *Submission 19*, p. 5.

3 Tasmanian Seafood Industry Council, *Submission 19*, p. 5.

4 Tasmanian Salmonid Growers Association, *Submission 33*, p. 25; see also Appendix 3, p. 46.

Industry estimates that costs have increased 100 per cent in the past five years due to increased monitoring, additional staff, independent certification and operational changes to meet certification requirements.<sup>5</sup>

5.6 However, Ms Jessica Feehely, EDO Tasmania, argued that it is important to consider the effectiveness of the current regulation. It was noted that the current regulatory framework was established at the commencement of the industry. Now that it is a well-established and expanding industry, the EDO Tasmania argued that it 'is important that the laws are reviewed to ensure that the impacts of these expansions are properly understood and properly managed'.<sup>6</sup>

5.7 Ms Feehely commented that there was room for improvement in relation to public participation, independence of decision making and transparency.<sup>7</sup> These issues are addressed below.

### **Independence of decision making**

5.8 Some submitters argued that there is a lack of regulatory independence within the Tasmanian regulatory framework including the role of the Environment Protection Authority (EPA). For example, EDO Tasmania commented on the role of the Department of Primary Industries, Parks, Water and Environment (DPIPWE):

In Tasmania, the Marine Farming Branch within DPIPWE is responsible both for promoting and regulating the marine farming industry; potentially conflicting roles.<sup>8</sup>

5.9 Mr Feehely, EDO Tasmania, added:

So the objectives which [DPIPWE] are working towards are in conflict potentially because they are promoting an industry and are also having to take action to potentially constrain the industry in the event that there are inappropriate impacts. In other countries, that potential conflict is managed by separating out the government agency responsible for management and promotion and the government agency responsible for monitoring and compliance.<sup>9</sup>

5.10 To illustrate its concerns about conflicting management priorities within DPIPWE, EDO Tasmania pointed to the expansion of marine farming in Macquarie Harbour. In this instance, DPIPWE was listed as the proponent for the action in the

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5 Tasmanian Salmonid Growers Association, *Submission 33*, p. 30.

6 Ms Jessica Feehely, Principal Lawyer, EDO Tasmania, *Committee Hansard*, 15 July 2015, pp 52, 57.

7 Ms Jessica Feehely, Principal Lawyer, EDO Tasmania, *Committee Hansard*, 15 July 2015, p. 57.

8 EDO Tasmania, *Submission 70*, p. 6.

9 Ms Jessica Feehely, Principal Lawyer, EDO Tasmania, *Committee Hansard*, 15 July 2015, p. 53.

referral to the Commonwealth Environment Minister although the expansion was being undertaken by private companies. EDO Tasmania stated:

The close relationship between the three companies and the regulator, a history of under-regulation and enforcement...and explicit support expressed by DPIPWE for aquaculture projects all affect public trust in the rigour of the regulatory framework.<sup>10</sup>

5.11 Ms Feehely argued that, while there is a role for government in assisting and supporting the industry, the same agency should not be responsible for monitoring and for compliance of the industry. Ms Feehely went on to state that these activities should be undertaken by the EPA.<sup>11</sup> Ms Feehely added that:

The Environment Protection Authority has the role in relation to other activities of providing that monitoring and compliance, and we would see that as an appropriate role for the EPA to take on monitoring and compliance in relation to the aquaculture industry.<sup>12</sup>

5.12 The regulatory independence in the current planning regime was supported by Mr Julian Harrington, Tasmanian Seafood Industry Council. In this regard, Mr Harrington commented on the rock lobster fishery and stated that:

An adaptive management structure does not mean it is always about expansion. It is the government taking the responsible approach when scientific information is put forward. In the case of the rock lobster fishery, through various means—below average recruitment, urchin issues on the east coast—stocks declined. The government and industry pushed for a retraction rather than an expansion of the quota to ensure long-term sustainability.<sup>13</sup>

5.13 Mr Harrington concluded that 'I am sure the government would take the same approach with the salmon industry, should there be sufficient evidence to suggest there is detrimental impact to other marine resources or the broader marine environment'.<sup>14</sup>

5.14 When questioned about possible conflict of interest when the Tasmanian Government is a strong proponent for growth of the industry and DPIPWE is the regulator, Dr John Whittington, Secretary, DPIPWE, commented that:

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10 EDO Tasmania, *Submission 70*, p. 6.

11 Ms Jessica Feehely, Principal Lawyer, EDO Tasmania, *Committee Hansard*, 15 July 2015, p. 53; see also EDO Tasmania, *Submission 70*, p. 6.

12 Ms Jessica Feehely, Principal Lawyer, EDO Tasmania, *Committee Hansard*, 15 July 2015, p. 53.

13 Mr Julian Harrington, Project Manager, Tasmanian Seafood Industry Council, *Committee Hansard*, 15 July 2015, p. 48.

14 Mr Julian Harrington, Project Manager, Tasmanian Seafood Industry Council, *Committee Hansard*, 15 July 2015, p. 48.

...the government is very supportive of growth in the salmonid industry. As a regulator, I am quite confident that we are regulating appropriately in accordance with the legislation.<sup>15</sup>

## **Marine Farming Planning Review Panel**

5.15 Submitters commented on recent changes to legislation in relation to the Panel, representation on the Panel and transparency of processes.

### ***Change to decision making arrangements***

5.16 For some submitters the change made to the role of the Panel in decision making was a major concern. Until November 2011, the Panel could determine that unacceptable proposals for fin-fish marine farming operations could not proceed. However, amendment of the *Marine Farming Planning Act 1995* (MFP Act) resulted in the Panel being only able to make a recommendation to the Minister for Primary Industries and Water.

5.17 Mr Jon Bryan, Tasmanian Conservation Trust, described the amendment as removing 'even the requirement for the already inadequate planning process to approve developments'.<sup>16</sup>

5.18 EDO Tasmania added that the minister would have the final decision in relation to a proposal and could also make any changes to a proposal without further consultation. EDO Tasmania did not support this approach and stated:

...there can be no good reason to allow proposed marine farming activities where the independent, scientific expert Panel has determined that the amendments are not sustainable and recommended refusal. Decisions made by the Panel to refuse a proposal should be final (subject to a right of review...).<sup>17</sup>

5.19 Allowing the minister to overrule any recommendations made by the Panel, has led, according to the Australian Maritime Conservation Society, to a 'perception that industry expansion is of greater importance than ensuring the environment that supports it is healthy'.<sup>18</sup>

5.20 However, Mr Julian Harrington, Tasmanian Seafood Industry Council, did not agree with these views and stated:

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15 Dr John Whittington, Secretary, Department of Primary Industries, Parks, Water and Environment, *Committee Hansard*, 15 July 2015, pp 2–3.

16 Mr Jon Bryan, Marine Campaigner, Tasmanian Conservation Trust, *Committee Hansard*, 16 July 2015, p. 2; see also Australian Marine Conservation Society, *Submission 9*, p. 5.

17 EDO Tasmania, *Submission 70*, p. 8.

18 Australian Marine Conservation Society, *Submission 9*, p. 5.

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The seafood industry supports the system in place to ensure the sustainability of our seafood industry on the whole. The system in place at the moment takes into account a whole range of information and input from a whole range of stakeholders. So it is not necessarily the minister making a final decision. It is the minister utilising input from a whole range of stakeholders.<sup>19</sup>

5.21 In addition, the committee notes that while the minister is not required to adopt the Panel's recommendation, the Minister must provide a statement of reasons to the Tasmanian Parliament for any decision that is contrary to the Panel's advice.<sup>20</sup>

### ***Transparency and consultation***

5.22 The Tasmanian Conservation Trust commented on issues related to transparency and consultation during Panel reviews. The Trust stated that there is no requirement that the operations of the Panel are open to public scrutiny and there is no mechanism that ensures that there is genuine public input into the planning process. In addition, it was argued that 'there is no requirement for the Marine Farming Planning Review Panel to take into account public submissions and it does not have to justify its decisions'.<sup>21</sup>

5.23 Mr Jon Bryan, Tasmanian Conservation Trust, commented further on the consideration of community concerns by the Panel. He stated that the Panel:

...is purported to be an expertise based committee that can represent the interests of a wide range of members of the community. Instead, it has repeatedly failed to take into account genuine concerns about impacts including things such as visual and noise pollution, nutrients and other pollutants going into the water and loss of amenity. The panel has repeatedly dismissed views of local residents and communities as well as recreational users such as fishers and sailors. Many within the community have raised concerns about this with the government. I have been a member of two government endorsed peak recreational fishing groups that have pointed out the lack of meaningful representation and requested representation on the panel. Their requests were refused by the government.<sup>22</sup>

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19 Mr Julian Harrington, Project Manager, Tasmanian Seafood Industry Council, *Committee Hansard*, 15 July 2015, p. 48.

20 Hobart Community Legal Service, 'Marine Farming', *Tasmanian Law Handbook* <http://www.hobartlegal.org.au/tasmanian-law-handbook/community-and-environment/environment/industry-codes-practice/marine-farming> (accessed 7 August 2015).

21 Tasmanian Conservation Trust, *Submission 92*, pp 7–8; Mr Jon Bryan, Marine Campaigner, Tasmanian Conservation Trust, *Committee Hansard*, 16 July 2015, p. 1.

22 Mr Jon Bryan, Marine Campaigner, Tasmanian Conservation Trust, *Committee Hansard*, 16 July 2015, p. 2.

5.24 In relation to the lack of a requirement to explain its decisions, Mr Bryan noted that the Panel plans for the use of a public resource and thus 'it is planning for impacts on communities and individuals—impacts that are very significant for those communities and individuals—and it should be open to public scrutiny, but it is not'.<sup>23</sup>

5.25 Mr Bryan concluded that this is a structural issue with the planning process and went on to state that 'to give the aquaculture industry credit, I think that they have been more proactive and more sensitive to community needs and concerns than the government in recent years, but that is really an indictment on the government process'.<sup>24</sup>

5.26 Dr Whittington responded to concerns about public consultation and noted that the systems set up under the MFP Act provide for public input into planning decisions. He added that, in developing of new marine farm planning areas, 'there is a very public process' and environmental impact statements are publicly available. In addition, there is opportunity for the community to put their views to the Panel on those developments. Dr Whittington commented:

So there is a substantial process of community engagement and involvement around the development of new waters.<sup>25</sup>

5.27 Mr Tony Thomas, DPIPWE, in reply to questioning regarding community concerns about marine farming proposals being taken into account by the Panel, commented 'that is their role—it is their job to try to balance'.<sup>26</sup>

### ***Panel representation***

5.28 The Panel consists of eight persons appointed by the Governor. The MFP Act sets out the disciplines for each member:

- (a) one is the chairperson of the Panel; and
- (b) one is a person nominated by the chairperson of the Tasmanian Planning Commission with ability and experience in planning issues; and
- (c) one is the Director, Environment Protection Authority; and
- (d) one is a person with ability in marine resource management; and

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23 Mr Jon Bryan, Marine Campaigner, Tasmanian Conservation Trust, *Committee Hansard*, 16 July 2015, pp 5–6.

24 Mr Jon Bryan, Marine Campaigner, Tasmanian Conservation Trust, *Committee Hansard*, 16 July 2015, p. 10; see also Ms Rebecca Hubbard, Marine Coordinator, Environment Tasmania, *Committee Hansard*, 16 July 2015, p. 10.

25 Dr John Whittington, Secretary, Department of Primary Industries, Parks, Water and Environment, *Committee Hansard*, 15 July 2015, p. 8.

26 Mr Tony Thomas, Principal Management and Planning Officer, Department of Primary Industries, Parks, Water and Environment, *Committee Hansard*, 15 July 2015, p. 9.

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- (e) one is a person with ability to assess boating, recreational and navigational issues; and
  - (f) one is a person with experience in marine farming; and
  - (fa) one is a person with expertise in local government issues; and
  - (g) one is a person nominated by the Minister.<sup>27</sup>

5.29 EDO Tasmania commented that while members could have relevant scientific expertise, there is no explicit requirement for the Panel to include a member with qualifications in relation to marine ecology, hydrology, marine sediments or conservation management. Similarly, while a community representative could be the person nominated by the Minister, there is also no capacity for community concerns to be specifically represented.<sup>28</sup>

5.30 EDO Tasmania recommended that amendments be made to the MFP Act to require that the Panel include a member with qualifications and expertise in relation to marine ecology and hydrology and a member representing community issues.<sup>29</sup>

### **Lack of integration of the planning process**

5.31 Some submissions focused on the lack of integration in Tasmania of marine farm planning and other planning regimes.<sup>30</sup> For example, EDO Tasmania commented that the MFP Act seeks to achieve well-planned sustainable development of marine farming activities having regard to the need to 'take account of land uses' as well as other matters.<sup>31</sup> However, EDO Tasmania argued that:

...the separation of marine farming planning from coastal and land use planning frameworks can make it difficult to balance these objectives. In practice, DPIPWE, the agency responsible for both planning and regulation of marine farming, has a clear interest in favouring development of marine leases over other uses.<sup>32</sup>

5.32 EDO Tasmania went on to comment that, although local council planning authorities have jurisdiction over land based operations, they do not have jurisdiction over marine farming planning schemes. As a result, marine farming activities fall outside the Tasmanian *Land Use Planning and Approvals Act 1993* (LUPAA). However, the minister can require a planning scheme to be altered to ensure that land

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27 MFP Act, s. 2.

28 MFP Act, s. 2(d).

29 Ms Jessica Feehely, Principal Lawyer, EDO Tasmania, *Committee Hansard*, 15 July 2015, p. 55.

30 Environment Tasmania, *Submission 92*, p. 3.

31 MFP Act, s. 4(1).

32 EDO Tasmania, *Submission 70*, p. 3.

based activities do not affect marine farming. EDO Tasmania stated that this 'provides an unfair priority for marine farming activities'.<sup>33</sup>

5.33 EDO Tasmania strongly advocated for the inclusion of marine farming within the standard land use planning process under the LUPAA, with responsibility for strategic planning, assessment and approval of development applications and enforcement of permit conditions falling to local government. In addition, it argued that planning schemes dealing with marine farming should be reviewed by the Tasmanian Planning Commission (TPC).<sup>34</sup> EDO Tasmania also pointed to regulatory regimes in Scotland and New Zealand where the integrated system of planning covers both traditional development and land-use as well as marine and coastal uses.<sup>35</sup> An overview of aquaculture regulation in overseas jurisdictions is provided in Appendix 3 of this report.

5.34 Similarly, the Tasmanian Conservation Trust commented:

Planning for aquaculture is not properly integrated into a more general system of planning for the marine environment. There should be a Tasmanian Coastal Policy that deals with the aquaculture industry in a way that protects the values associated with Tasmania's coastal environment. It appears that the even council planning does not necessarily limit aquaculture industry activities on land, and that the water based components are not limited at all.<sup>36</sup>

5.35 Mr Bryan, Tasmanian Conservation Trust, went on to comment that bringing the marine planning process under the LUPAA would 'provide genuine community input, public scrutiny, transparency of the process and a reasonable appeals process that will actually protect people's rights and interests'.<sup>37</sup>

5.36 Similarly, the Australian Marine Conservation Society noted concerns about the lack of integration of marine planning activities and stated:

In effect, marine activities are given primacy over terrestrial ones, with the effect that there is no holistic process that considers the impact of aquaculture at an ecosystem level. Given the inshore nature of aquaculture operations, the location of hatchery activities on land and the interconnectedness of land and sea, this separatist approach prevents a strategic planning process that incorporates both terrestrial and marine ecosystems.<sup>38</sup>

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33 EDO Tasmania, *Submission 70*, p. 4.

34 EDO Tasmania, *Submission 70*, p. 4.

35 Ms Jessica Feehely, Principal Lawyer, EDO Tasmania, *Committee Hansard*, 15 July 2015, p. 53; see also EDO Tasmania, *Submission 70*, p. 5.

36 Tasmanian Conservation Trust, *Submission 92*, p. 9.

37 Mr Jon Bryan, Marine Campaigner, Tasmanian Conservation Trust, *Committee Hansard*, 16 July 2015, p. 2.

38 Australian Marine Conservation Society, *Submission 9*, p. 5.



5.37 The Society noted EDO Tasmania's suggestion that marine planning come under the LUPAA and that the TPC oversight aquaculture development plans. It stated that this 'would be an appropriate way to ensure a strategic, whole of ecosystem approach to taken to marine farm planning'.<sup>39</sup>

5.38 Local government also commented on the lack of integration in the land planning scheme. Kingborough Council stated that the Tasmanian Government does not adequately involve local government in critical decision-making regarding lease site activities, intensifications, expansions and remediation.<sup>40</sup> The Mayor of Kingborough Council, Mr Stephen Wass, commented:

I think the biggest issue in the past has been that, when a licence has been provided to an area, the state government has provided that licence and we have no issues with that and the procedures followed, but as far as local government goes, because it is in a water area—and in our case that was predominantly in the channel area—local government is not involved. Local government is involved by finding out that that operation is going to take place. The only time local government is involved is when there is an application in relation to the land based activity requirements.<sup>41</sup>

5.39 A further issue raised by the Kingborough Council was that, while councils are not involved in marine planning processes, councils are the first place that members of the community contact when problems arise. Mr Gary Arnold, Kingborough Council, stated:

...the reality is that whilst we have no say in the approvals, other than the opportunity to put a submission in, which we have done in the past, once the leases are approved we generally are, for want of a better term, the organisation that the community comes to with any concerns, whether they be about noise, visual intrusion into their amenity, their water views et cetera<sup>42</sup>

5.40 Mr Arnold suggested that one way of addressing local government concerns would be for the Panel to be required to hold a hearing with the local government or municipal area before any approval is given.<sup>43</sup>

5.41 Dr Whittington, DPIPWE, responded to the suggestion that marine farming planning should come within the LUPAA. Dr Whittington commented that he did not consider that a change was warranted and stated:

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39 Australian Marine Conservation Society, *Submission 9*, p. 5.

40 Kingborough Council, *Submission 1*, p. 1.

41 Mr Stephen Wass, Mayor, Kingborough Council, *Committee Hansard*, 15 July 2015, p. 15.

42 Mr Gary Arnold, General Manager, Kingborough Council, *Committee Hansard*, 15 July 2015, p. 16.

43 Mr Gary Arnold, General Manager, Kingborough Council, *Committee Hansard*, 15 July 2015, p. 16.

The Tasmanian regulatory system is based upon the Resource Management and Planning System, the RMPS. The Marine Farming Planning Act sits inside that umbrella of the RMPS, as does the Tasmanian Planning Commission. We believe that the regulatory environment that is set up under that act is...global best practice and I do not see any reason to change that. The systems that are set up under the Marine Farming Planning Act provide for public input into planning decisions. They provide for expert advice into planning decisions and provide advice to the relevant minister to make decisions. I think they are all the elements of a good planning system and are consistent with the RMPS, of which the [Tasmanian Planning Commission] is a part.<sup>44</sup>

### **Merit review mechanisms**

5.42 Of particular concern to some submitters was the lack of merit review or appeal mechanisms within the marine farming planning process. The DPIPWE confirmed that there is no appeal process. Mr Thomas, DPIPWE, stated:

Once the minister makes a decision on a development proposal—be it a new plan or an amendment to a plan—there are no appeal provisions.<sup>45</sup>

5.43 In contrast, EDO Tasmania noted that for most significant land use and development decisions under the LUPAA, any person who made a representation can appeal to the Resource Management and Planning Appeal Tribunal. This means that the tribunal effectively re-hears the evidence and makes its own determination as to whether the development proposal should proceed. However, there is no similar right to appeal against a decision under the MFP Act to amend a marine farming development plan to facilitate an aquaculture proposal.<sup>46</sup>

5.44 EDO Tasmania stated that a perceived lack of independence in the decision making processes under the MFP Act makes it important that a right to appeal exist. Specifically, it argued that there should be an appeal process that is open to any person who made a representation in respect to the initial proposal, including affected residents, non-government organisations, other industries, tourism operators and the local government.<sup>47</sup>

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44 Dr John Whittington, Secretary, Department of Primary Industries, Parks, Water and Environment, *Committee Hansard*, 15 July 2015, p. 8.

45 Mr Tony Thomas, Principal Management and Planning Officer, Department of Primary Industries, Parks, Water and Environment, *Committee Hansard*, 15 July 2015, p. 9.

46 EDO Tasmania, *Submission 70*, p. 11.

47 EDO Tasmania, *Submission 70*, p. 11.

5.45 EDO Tasmania also commented that in jurisdictions where there is an integrated planning scheme it is standard practice for there to be opportunities to appeal against decisions.<sup>48</sup>

5.46 Ms Feehely added that the opportunity for third-party review of decisions is the best way to deal with any issue around conflict of interest.<sup>49</sup> The Australian Marine Conservation Society also stated that, as there is no right of appeal to challenge the minister's decision, 'there are limited opportunities for community engagement and government accountability is zero'.<sup>50</sup>

5.47 While there is no merit review mechanism in the MFP Act, judicial review of administrative decisions by the Tasmanian Supreme Court is provided through the *Judicial Review Act 2000*. A judicial review is concerned only with whether the decision was lawfully made.<sup>51</sup> A merits review enables a review of all aspects of the challenged decision.

### **Adequacy of resourcing**

5.48 A further issue raised by Environment Tasmania was the adequacy of resourcing of the regulator. Environment Tasmania noted that the industry aims to double production over the next 15 years. However, Environment Tasmania argued that the regulator is unable to keep up with expansion plans, unable to adequately assess monitoring data, unable to meet request for information from the public, and is 'failing to ensure fair resource sharing between the aquaculture industry, and other industries and the community for the long-term'.<sup>52</sup>

5.49 The DPIPWE Annual Report 2014 provides information on the department's groups and staffing levels. The aquaculture industry is supported by staff across a number of groups. Two of the main groups are Output Group 2 and Output Group 7. Output Group 2—Primary Industries comprises two areas: AgiGrowth Tasmania (which works with the agriculture industry to advance its prosperity and sustainability) and Marine Resources (which supports the fisheries and seafood sector). As at 30 June 2014, 58.25 Full Time Equivalent (FTE) staff were employed in Output Group 2, an increase from 48.62 FTE as 30 June 2013. Output Group 7 – Environment Protection and Analytical Services includes staff supporting the EPA. As

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48 Ms Jessica Feehely, Principal Lawyer, EDO Tasmania, *Committee Hansard*, 15 July 2015, p. 54.

49 Ms Jessica Feehely, EDO Tasmania, *Committee Hansard*, 15 July 2015, p. 55.

50 Australian Marine Conservation Society, *Submission 9*, p. 5.

51 *Judicial Review Act 2000*, s. 17, provides the grounds for review; see Tasmanian Salmonid Growers Association, *Response to submissions*, p. 24.

52 Environment Tasmania, *Submission 93*, pp 13–14.

at 30 June 2014, there were 121.32 FTE, an increase from 120.18 as at 30 June 2013.<sup>53</sup>

### **Committee comment**

5.50 The committee has considered the evidence provided concerning environmental planning and regulation of the fin-fish industry. The committee acknowledges that regulation of the industry is a Tasmanian state responsibility. In addition, the committee does not consider that there is clear evidence that the planning regime is flawed.

5.51 Nonetheless, the committee has noted the comments about the composition of the Marine Farming Planning Review Panel. While marine scientists have been appointed to the Panel, in particular Professor Colin Buxton and Dr Lois Koehnken, the committee considers that it is highly desirable that the Government ensure that the Panel always has at least one member with specific qualifications related to the marine environment.

5.52 The committee also believes that the Tasmanian Government should give consideration to identifying additional means for expanding community involvement in the planning process. The committee notes that the Panel may hold public hearings but there is no statutory obligation to do so in the Marine Farming Planning Act. The committee is of the view that consideration should be given to amending the Act to require the Marine Farming Planning Review Panel to hold public hearings in relation to a draft plan or an amendment to a plan. Not only would public hearings allow for community participation, they would also provide an opportunity for local councils to engage in the planning process and assist the industry to explain its proposals in a public forum.

### **Recommendation 2**

**5.53 The committee recommends that the Tasmanian Government give consideration to amending the *Marine Farming Planning Act 1995* to provide a statutory obligation for the Marine Farming Planning Review Panel to hold public hearings.**

5.54 The committee has noted suggestions that the fin-fish aquaculture planning process be brought under the *Land Use Planning and Approvals Act 1993* to promote integration with other planning regimes. However, the committee notes that the membership of the Marine Farming Planning Review Panel includes a person nominated by the chairperson of the Tasmanian Planning Commission with ability and experience in planning issues and a person with expertise in local government issues. The committee considers that the inclusion of these members on the Panel provides oversight of local government concerns during the planning process.

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53 Department of Primary Industries, Parks, Water and Environment, *Annual Report 2014*, pp 11–15, 87, 154.

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5.55 The Tasmanian Government relies on an adaptive management approach to ensure effective and timely responses to the evolving issues within the fin-fish industry. The committee supports such an approach. However, the committee considers that for an adaptive management approach to be fully effective, adequate resourcing of relevant government agencies is necessary.

5.56 The principal government agency responsible for the primary production sector in Tasmania is the Department of Primary Industries, Parks, Water and Environment. The department also includes the Environment Protection Authority. The committee notes that department's responsibilities are extensive. In addition, not only is the fin-fish aquaculture industry planning significant expansion of its operations over the coming years, the dairy industry is currently experiencing substantial growth.

5.57 The department's Annual Report 2014 indicated that staffing levels have increased in relevant monitoring and compliance areas. However, the committee considers that the Tasmanian Government should continue to ensure that the department has a sufficient number of staff, and staff with appropriate skills, to effectively manage all primary industries in Tasmania, particularly at a time when some industries are experience significant growth.

### **Recommendation 3**

**5.58 The committee recommends that the Tasmania Government ensure that the Department of Primary Industries, Parks, Water and Environment is provided with sufficient resources to undertake planning, monitoring and compliance of the primary industry sector.**

