

3 THE FISHERIES MANAGEMENT AMENDMENT (ADVISORY BODIES) ACT 1996

3.1 The Role of Advisory Councils and Management Advisory Committees as defined by the *Fisheries Management Amendment (Advisory Bodies) Act 1996*

The *Advisory Bodies Act* defines the role for the proposed Ministerial Advisory Councils and Management Advisory Committees as follows.

3.1.1 Ministerial Advisory Councils

The function of the proposed Ministerial Advisory Councils is described by s. 229 as:

- to advise the Minister on any matter that is referred to it by the Minister; and
- to advise the Minister on any other matter it considers relevant to the fishing industry sector for which it is established.

3.1.2 Management Advisory Committees (MACs)

The functions of a Management Advisory Committee for a fishery are outlined under s. 230 as:

- to advise the Minister on the preparation of any management plan or regulations for the fishery;
- to monitor whether the objectives of the management plan or those regulations are being attained;
- to assist in a fishery review in connection with any new management plan or regulations; and

- to advise on any other matter relating to the fishery.

3.2 The New Advisory Body Structure

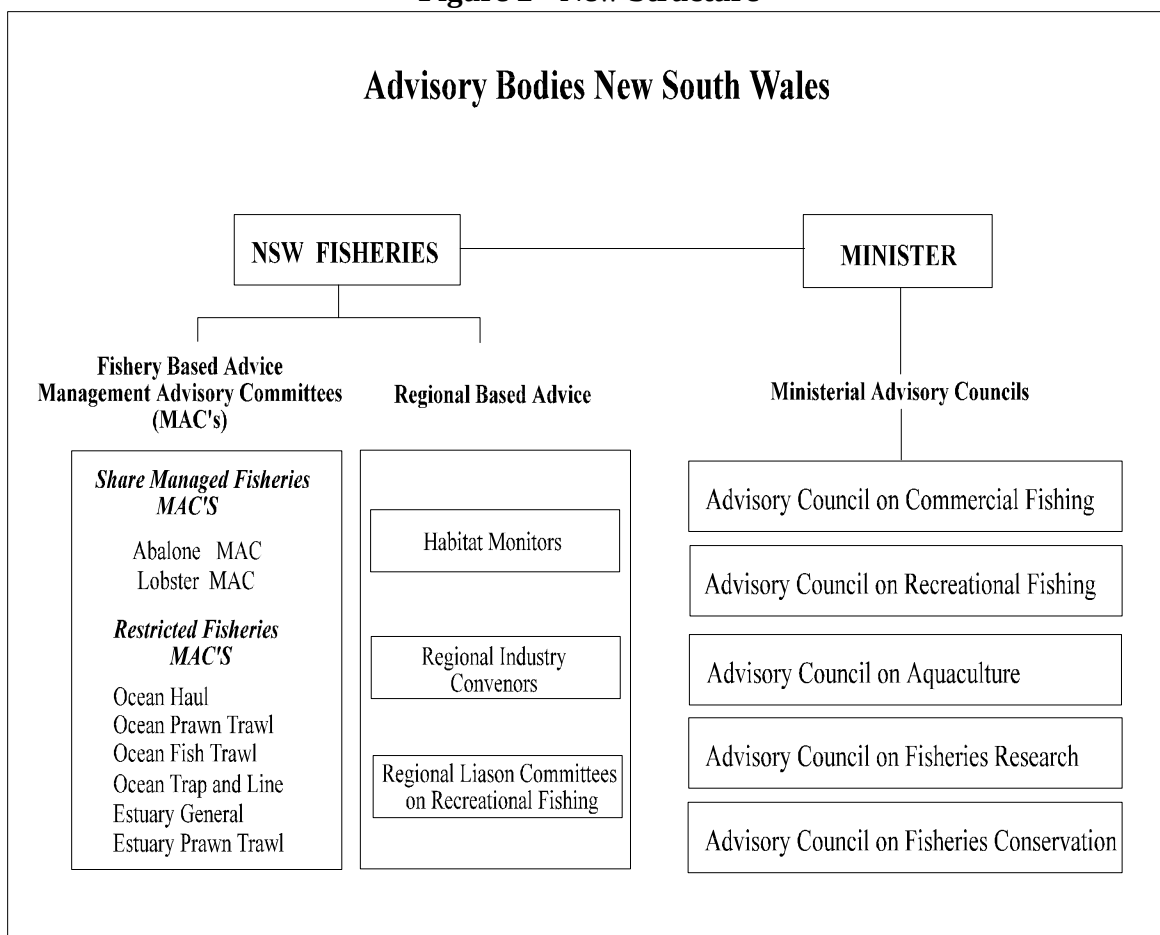
The *Advisory Bodies Act* aims to create a two tiered advisory body structure. S. 229 provides for the creation of expertise-based Ministerial Advisory Councils with members appointed by the Minister in accordance with the associated regulations. The draft *Advisory Council Regulations* received by the Standing Committee on 12 June 1997 provide for five Ministerial Advisory Councils to advise the Minister on commercial fishing, recreational fishing, fisheries research, aquaculture, and fisheries conservation. S. 230 of the *Advisory Bodies Act* seeks to establish eight fishery-based Management Advisory Committees composed of commercial fishers, elected by licence holders within the fishery, and members from other interest groups determined by the Minister in accordance with the regulations.

3.2.1 Management Advisory Committees (MACs)

MAC Regulation 231 provides for the establishment of Management Advisory Committees for each share-managed or restricted fishery. These fisheries are as follows:

- an abalone share management fishery;
- a lobster share management fishery;

Figure 2 - New Structure



- an ocean prawn trawl restricted fishery;
- an ocean fish trawl restricted fishery;
- an ocean trap and line restricted fishery;
- an estuary general restricted fishery;
- an estuary prawn trawl restricted fishery; and
- an ocean hauling restricted fishery.

The composition of Management Advisory Committees is set down under s. 231 of the *Advisory Bodies Act*. Management Advisory Committees are to include elected shareholders (for share-managed fisheries) or elected licence holders (for restricted fisheries). Additional members are to be appointed to Management Advisory Committees by the Minister from the following interested groups in accordance with *MAC Regulation 261*:

- NSW Fisheries;
- groups representing recreational fishers;
- the Nature Conservation Council;
- groups representing indigenous Australians; and
- such other groups as the Minister considers appropriate.

The *MAC Regulations* also stipulate:

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| 261(2) | The number of non-elected members appointed to a MAC is to be less than the number of industry members of the MAC. |
| 261(3) | At least one of the non-elected members appointed to each MAC is to be a person selected from a panel of nominees of the Nature Conservation Council. |

3.2.2 Ministerial Advisory Councils

The following Ministerial Advisory Councils are to be set up in accordance with s. 229 of the *Advisory Bodies Act*:

- the Advisory Council on Commercial Fishing (ACCF);
- the Advisory Council on Recreational Fishing (ACoRF);
- the Advisory Council on Fisheries Research (ACFR);
- the Advisory Council on Aquaculture (ACA); and
- the Advisory Council on Fisheries Conservation (ACFC).

The draft *Advisory Council Regulations* (as of 12 June 1997) provide for the establishment of these Councils. Aspects common to all proposed Ministerial Advisory Councils include that:

- appointments to Advisory Councils are for a period not exceeding three years, although some of the first members may be appointed for a shorter period to ensure continuity of membership;
- the Director of Fisheries, or his nominee, is to be appointed as a member;
- the Minister may remove a member from office at any time after consultation with the Advisory Council concerned;
- the Minister is to appoint a person who has no pecuniary interest in a fishery to chair meetings of an Advisory Council;
- the procedure for the calling and holding of meetings is to be determined by the Minister;¹

¹ The draft *Advisory Council Regulation* 229P(2), however, states that “an Advisory Council is to hold at least 2 meetings each calendar year, unless the Council otherwise determines.”

- members are obliged to disclose to the Chair the nature of any pecuniary interest that they may have in relation to a matter being considered by the Advisory Council; and
- the Minister may call for expressions of interest in membership of an Advisory Council by advertisement published in a newspaper circulating throughout the State.

The draft *Advisory Council Regulations* also set out the composition of each Ministerial Advisory Council as follows.

3.2.2.1 Advisory Council on Commercial Fishing

The membership of the Advisory Council on Commercial Fishing is to include one person representing the eight share-managed or restricted fisheries. The draft *Advisory Council Regulations* provide for these members to be appointed in the following manner:

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| 229D(2) | The Minister is to request the Management Advisory Committees for each of those fisheries to nominate 2 commercial fishers as candidates for appointment to the Advisory Council. |
| 229D(3) | One of the commercial fishers nominated by each Management Advisory Committee is to be appointed as a member of the Advisory Council. |

The draft *Advisory Council Regulations* also include broad provision for additional appointments by the Minister as follows:

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| 229D(5) | Other members of the Advisory Council may be appointed from persons nominated by any group that the Minister considers to have an interest in the fishery (for example, |
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groups with an interest in conservation, fish marketing and aboriginal culture).

3.2.2.2 Advisory Council on Recreational Fishing

The draft *Advisory Council Regulations* provide for membership of the Advisory Council on Recreational Fishing as follows:

- 229E The persons appointed as members of the Advisory Council on Recreational Fishing are to include persons who the Minister considers to have expertise in one or more of the following areas:
- a. estuary fishing;
 - b. offshore fishing;
 - c. freshwater fishing;
 - d. underwater fishing;
 - e. sale of fishing tackle;
 - f. the media (reporting on fishing);
 - g. charter boat fishing;
 - h. conservation; and
 - i. Aboriginal culture.

3.2.2.3 The Advisory Council on Fisheries Research

The draft *Advisory Council Regulation 229F* lists the proposed membership of the Advisory Council for Fisheries Research as:

- a. one person who the Minister considers to have expertise in fisheries economics;
- b. two persons who the Minister considers to have an interest in commercial fishing;
- c. two persons who the Minister considers to have an interest in recreational fishing;
- d. one person who the Minister considers to have an interest in aquaculture;
- e. two persons who the Minister considers to have an interest in fisheries habitat and conservation; and
- f. one person who the Minister considers to have an interest in seafood marketing.

3.2.2.4 The Advisory Council on Aquaculture

The draft *Advisory Council Regulations* provide for the membership of the Advisory Council on Aquaculture as follows:

- 229G(1) The persons appointed as members of the Advisory Council on Aquaculture are to include persons who the Minister considers to have expertise in one or more of the following areas:
- (a) oyster farming;
 - (b) freshwater crayfish;
 - (c) marine shellfish;
 - (d) freshwater finfish;
 - (e) marine finfish;

- (f) hatchery operations; or
- (g) processing and marketing.

In addition, the draft *Advisory Council Regulation* 229G(2) allows the Minister to request any relevant advisory committee to nominate a person for membership of the Advisory Council.

3.2.2.5 The Advisory Council on Fisheries Conservation

The proposed membership of the Advisory Council on Fisheries Conservation is outlined by draft *Advisory Council Regulation* 229H. This states that the Advisory Council is to include one member from each of the following Advisory Councils:

- the Advisory Council on Commercial Fishing;
- the Advisory Council on Recreational Fishing; and
- the Advisory Council on Aquaculture.

In addition, the Advisory Council is to include three persons who the Minister considers to have expertise in one or more of the following areas:

- fisheries habitat;
- parks and reserves;
- threatened species;
- marine ecology; and
- freshwater ecology.

3.2.3 Additional Non-statutory Advisory and/or Representative Bodies

A number of non-statutory advisory bodies and structures have been put in place by NSW Fisheries to support the advisory body system created under the *Advisory Bodies Act*. This section briefly outlines their structure and their proposed role in the advisory body system.

3.2.3.1 The Commercial Fishers Representative Council (CFRC)

The Commercial Fishers Representative Council (CFRC) is a non-statutory body composed of elected members from each of the commercial sectors. NSW Fisheries promoted the creation of the Council as part of its attempt to separate the advisory and representative roles of advisory bodies from that of a partisan lobby group². It is predominantly for that reason, that is, that the Council is seen as a creature of NSW Fisheries and not that a truly independent representative body of commercial fishers, that there appears to be a degree of lingering suspicion as to the ability of the Council to be a truly independent lobbying organisation.

The Council's primary role is to act as a lobby group for commercial fishing interests. The Council's constitution lists its objectives as follows:

- to unite the industry under one peak body;
- to promote the industry;
- to act as an intermediary between government and industry protecting the interests of commercial fishers; and
- to consider the recommendations of the various fisheries advisory bodies.

The funding for the establishment of the Council was provided by NSW Fisheries. The Council is now financed by individual subscriptions from its members. The nine member Commercial Fishers Representative Council Executive Committee is elected by the entire membership.

² See evidence of Dr Glaister, 13 February 1997, pp. 78-79.

As a result of some dissatisfaction with the role of, and representation provided by, the Commercial Fishers Representative Council, the Professional Fishers Association of NSW (“Profish”) has also been formed to represent the industry.

3.2.3.2 Regional Industry Conveners

Regional consultation between the commercial fishing industry and the Department is provided by nine Regional Industry Conveners (RICs). Regional Industry Conveners are individuals who, on a part-time basis, are responsible for coordinating local industry meetings and providing a link between the industry and Department at a regional level. The Director of Fisheries appoints Regional Industry Conveners after advertising for nominations from commercial fishers. The Department pays Conveners a retainer to cover the cost of communicating with fishers throughout their region.

3.2.3.3 Habitat Monitors

Regional Industry Conveners are supported by Habitat Monitors, who are also appointed by the Director of Fisheries after advertising for nominations from commercial fishers. Habitat Monitors are individuals who, on a part-time basis, disseminate habitat-related information and record and inform NSW Fisheries of incidents such as fish kills or point source pollution that will require immediate action from the Department and/or other relevant authorities. The Department pays Habitat Monitors a small retainer to cover costs incurred in the fulfilment of their duties.

3.2.3.4 Regional Liaison Committees for Recreational Fishing

Seven Regional Liaison Committees for Recreational Fishing (RLCRFs) have been established along the NSW coast to provide regional consultation and communication with NSW Fisheries. Committee members are appointed by the Director of Fisheries after consultation with peak angling bodies and the Advisory Council on Recreational Fishing (ACoRF). In addition to representatives of angling bodies and unaligned recreational fishers, these Committees are required to have a representative of the fishing tackle industry, the angling media, and the recreational charter boat industry. The Department attends

Committee meetings to discuss recommendations and matters of concern at least four times per year.

