

Guidelines for the operation of the prospective cost recovery system

Victorian Fisheries Authority



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Contents

Disclaimer	1
Accessibility	1
1. Background	3
2. Operational Policy	5
Cost Recovery Principles	5
Recoverable Services	5
Research Services	6
Education & Enforcement Services	6
Fisheries Management Services	8
Licence Administration Services	9
Cost Recovery Administration Services	10
Fisheries Policy Services	10
Basis on which Levies are to be charged	11
Fee Units	11
Abalone royalty	12
Recoverable costs fund sources	13
Cost recovery cycle	13
Treatment of Marine Parks Offset Funding	13
Schedule of services	13
Adjustment to services and levies	13
Additional cost recoverable services	14
Direct and indirect costs	14
Executive management costs	14
FRDC Levy	14
SIV Levy	15
Emergency Management	15
Emergency responsibilities	15
Levy adjustment	16
Where an emergency leads to fishery closure	16
Consultation	16
Assistance where primary producers adversely affected by emergency.....	16
Reference.....	17
Structural adjustment.....	17
Dealing with hardship	16
Concessions	16
Phasing in of Levies	18
New Fishery	19
What happens if there is a reduction in the number of licences in each fishery?	19
Options to prevent fishery closure under cost recovery	21
Treatment of levies when a fishery is closed	21
Time recording	22
20 Day milestone	22
Information ownership	23
Will an adjustment be made to cost recovery levies for industry if the Court awards 'costs' to the Government following a successful prosecution?	23
Recreational vs. Commercial take	23
Recreational licence fees	23

3. Operational Procedure	25
Methodology to determine Costs	25
Remaining actions	25
Consultation	26
Consultation on the nature and extent of services to be provided	26
Update on VFA's Compliance Program	26
On-line reporting of Catch and effort data	27
How can industry reduce the cost recovery levies?	27
Aligning the Licensing year and financial year	27
Alternative service providers	28
Tendering of contracts for provision of services by a third party under the proposective cost recovery system	29
Assessment of services for establishing under-delivery and waivers	31
Review of the Guidelines	31
Appendix A: The annual cost recovery cycle at full implementation	33

1. Background

This document describes the approach to operating the prospective cost recovery system from 1 April 2014. This is a working document and is subject to refinement as the implementation of the prospective cost recovery system commences.

The Victorian Fisheries Authority (VFA) delivers fisheries administration, management, compliance and research services for the ongoing sustainable operation of Victoria's commercial fisheries (comprising wild-catch, aquaculture, fish receiver licences and quota holders), in accordance with the *Fisheries Act 1995* and the Fisheries (Fees, Royalties and Levies) Regulations 2008. Levies for cost-recoverable services are recovered in line with the Victorian Government's response to the National Competition Policy 2001 review of the Fisheries Act and its more recent Cost Recovery Guidelines.

Cost recovery levies are a payment to the State toward the provision of research, management, compliance and administration fisheries services provided to Victoria's commercial fishing sector that have been deemed cost recoverable. The Government is committed to cost recovery because it is considered that the broader community (all tax payers) should not pay the costs of services that are provided because of the operation of the commercial fishing sector. Separate levies go to the Fisheries Research and Development Corporation and to representative bodies.

The Government is committed to a transparent cost recovery process whereby representatives of licence holders of the aquaculture and wild catch fisheries can critically review and advise the government on issues pertaining to cost recovery, including the identification and apportioning of recoverable fisheries regulatory services costs.

In order to facilitate this, a Fisheries Cost Recovery Standing Committee (FCRSC) has been established which operates under an agreed Terms of Reference between industry and Government.

The FCRSC provides advice to the Minister on the ongoing operation of the cost recovery program. The FCRSC comprises:

- an independent Chairperson;
- the Executive Director of SIV;
- four members nominated by Seafood Industry Victoria (SIV) who represent the commercial wild-catch sector;
- one member nominated by SIV representing the aquaculture sector, until such time that a representative body of the aquaculture sector can be authorised to make this nomination; and
- two members from the Victorian Fisheries Authority or a relevant division of DEDJTR nominated by the CEO, Victorian Fisheries Authority.
- At least 50% representation by women, in accordance with the government directive set in March 2015.

During 2011-2012, a comprehensive review of the cost recovery process for Victoria's commercial fisheries was undertaken in consultation with the FCRSC. The review highlighted substantial under-recovery of the costs for fisheries services provided to commercial fisheries under the retrospective system and recommended a forward budgeting or prospective approach. A prospective approach will support increased transparency, and the ability for industry to have input into the nature, design and extent of services to be provided by VFA or alternative service providers, with a view to realising both improved efficiency and cost savings.

Following completion of the review in 2012, the Minister for Agriculture and Food Security asked VFA to implement, in consultation with the FCRSC, a new, simpler, forward budgeting approach to cost recovery for the licensing year beginning 1 April 2014.

The FCRSC has overseen the design process of the new system, providing advice on:

- a set of cost recovery principles;
- the services that VFA provides to industry (both recoverable and non-recoverable);
- the levels of recoverability for each cost recoverable service, i.e. proportion attributed to the commercial sector;
- the costs incurred to deliver that service (both staffing and operating);
- a preferred consultation approach; and
- milestones that industry can measure VFA's performance against.

VFA, in consultation with the FCRSC, has forecast the nature, level and cost, of recoverable fisheries services to be provided to each fishery. This information is contained in schedules of services.

Recoverable cost estimates are based on estimated Full Time Equivalents (FTEs) and operating expenses incurred for the provision of services. VFA directors were asked to estimate the average annual amount of staff time spent and operating cost against each cost recoverable service provided to industry within each fishery over a four year period, recognising that some costs may only actually be incurred in one or two particular years in the cycle. This approach enables industry to have more certainty over the cost of their annual levies, and avoids the high transaction cost of annual adjustments and smooths the likely variation in services in specific cases.

Performance measures (milestones) are set out for each category of Fisheries Service (e.g. compliance, management, science). VFAR will report on delivery against these measures on a twice yearly basis to the Fisheries Cost Recovery Standing Committee and publish the results on the Agriculture website.

The proposed approach is prospective, forecasting the services to be delivered, and associated costs, to derive levies for the forthcoming licensing year on average over four years.

The prospective system will ensure that levies on commercial fisheries licences and individual quota units are consistent with the government's Cost Recovery Guidelines. The Guidelines are to provide for the efficient and equitable recovery of costs from those benefiting from the provision of fisheries services or those generating the need for such services.

FCRSC will continue to oversee the implementation of the cost recovery system and to represent the views of industry in an advisory manner. Where agreement cannot be reached between industry and departmental members of the committee, the matter will be referred to the EDFV or Minister for a decision.

The Minister agreed to the new approach being phased in over three years in such a way that it does not unduly overburden industry, while moving towards an appropriate level of cost recovery. This will ease the initial impact on licence holders and provide opportunities for further consideration of necessary services and technology that could continue to improve efficiency. In this context, the Minister has agreed to a range of concessional reductions in the extent of levies imposed.

2. Operational Policy

Cost Recovery Principles

The primary objective of cost recovery is efficiency, and an important supporting objective is equity, such that those who use regulated products or request additional information are those that bear the costs.

The important principles to be considered in the cost recovery system are the full recovery of costs attributable to the commercial sector and a number of design and operational principles including administrative simplicity, clear accountabilities, consultation with industry, and monitoring and review.

Following consultation with the FCRSC, the 11 cost recovery principles for the prospective cost recovery system are:

- i) Cost recovery systems should be designed to promote:
 - a. economic efficiency; i.e. improve the allocation of resources in an economy by providing price signals for service provision that incorporate all of the relevant costs; and
 - b. equity; i.e. those that benefit from a government service, or contribute to the need for a service, should pay for the associated costs. Where a number of groups benefit from a service, costs should be apportioned.
- ii) The cost recovery system should be administratively simple and minimise operating costs.
- iii) Operation of the system, including planning for the provision and delivery of services, should involve well designed, cost effective, consultation with those paying for the costs of services.
- iv) There should be transparency about the nature, extent, delivery and cost, of services for which there is cost recovery.
- v) Operation of the system should promote opportunities for efficiency improvements.
- vi) Cross subsidisation between fishers and fisheries should be minimised.
- vii) Fee for service should be used where possible to directly recover the costs of transactions/services.
- viii) Between year volatility should be minimised in order to smooth costs to better enable businesses to plan.
- ix) Where resources are diverted to non-recoverable services (e.g. emergency services) or are materially under-delivered, a corresponding adjustment to future levies or future services should be made.
- x) The implementation of the system should include monitoring and periodic review.
- xi) The design, nature and extent of services and levies should take into account the risks posed to the fishery and the value of production generated by the fishery.

Recoverable Services

The FCRSC determined the categories of services that VFA would provide to the commercial wild-catch and aquaculture industries, and the level of cost attribution applicable to industry for each of those categories.

Service Level Agreements

There is no need for a contract or service level agreement to be entered into between the Government and industry regarding the provision of services in which costs are recovered prospectively. The Victorian Government provides regulatory services to the commercial wild-catch and aquaculture sector in order to meet its obligations under the *Fisheries Act 1995*. A proportion of some of the costs incurred to deliver those services is then recovered from industry (the beneficiary of those services) in line with Government policy on cost recovery. It is not the same as a contract entered into between two parties in the private sector. However, the FCRSC noted that it does involve similar features such as the description of services, key deliverables, providing transparency and a basis for improved reporting.

Research Services

Function	Description	Cost Attribution to commercial fisheries %	Cost attribution to commercial fisheries following concessions %
Data collection, monitoring and analysis for stock assessment	Species/fishery specific surveys, projects and assessment. Includes science on biological parameters of species where specifically related to the assessment of sustainable take e.g. aging. Does not include commercial catch and effort collection (see below)	100% of commercial proportion of total catch (commercial vs. non-commercial)	100% of commercial proportion of total catch (commercial vs. non-commercial)
Research on environmental impacts of commercial fishing	Research on the effects of commercial fishing on environment or non-target species (excludes work on habitat)	100	100
Environmental Research	Habitat research – unrelated to fish production	0	0
Ministerial support	Requests for services from the Minister, Secretary, Deputy Secretary. All activities associated with directly supporting the above such as briefing requests, correspondence, speech notes and parliamentary briefing papers, etc	0	0

Education & Enforcement Services

Function	Description	Cost Attribution to commercial fisheries %	Cost attribution to commercial fisheries following concessions %
Ministerial Support	Requests for services from the Minister, Secretary, Deputy Secretary. All activities associated with directly supporting the above such as briefing requests, correspondence, speech notes and parliamentary briefing papers, etc.	0	0
Inspections of licensed or authorised commercial fishers	On-water, in transit and premise inspections	100	100
Inspections of unlicensed or unauthorised commercial activities	On-water, in transit and premise inspections	0	0
Inspections of licensed or authorised recreational activities	On-water, in transit and premise inspections	0	0
Surveillance of licensed or authorised commercial fishers	Covert or overt observation of activities on land or at sea by officers or through technology to gather information	100	0
Surveillance of unlicensed or unauthorised commercial activities	Covert or overt observation of activities on land or at sea by officers or through technology to gather information	0	0
Surveillance of licensed or authorised recreational activities	Covert or overt observation of activities on land or at sea by officers or through technology to gather information	0	0

Function	Description	Cost Attribution to commercial fisheries %	Cost attribution to commercial fisheries following concessions %
Intelligence related to licensed or authorised commercial fishers	The collection, collation, analysis and dissemination of information for strategic and tactical compliance purposes. Includes 13FISH, obtaining information from other bodies and agencies, writing information reports.	100	0
Intelligence related to unlicensed or unauthorised commercial activities	The collection, collation, analysis and dissemination of information for strategic and tactical compliance purposes. Includes 13FISH, obtaining information from other bodies and agencies, writing information reports.	0	0
Intelligence related to licensed or authorised recreational activities	The collection, collation, analysis and dissemination of information for strategic and tactical compliance purposes. Includes 13FISH, obtaining information from other bodies and agencies, writing information reports.	0	0
Investigation and/or major case management related to licensed or authorised commercial fishers	Registered investigations and operations (including apprehension & arrest) related to licensed or authorised commercial operators. Preparation of documents up to prosecution stage.	100	0
Investigation and/or major case management related to unlicensed commercial activities	Registered investigations and operations (including apprehension & arrest) related to unlicensed commercial operators/persons. Preparation of documents up to prosecution stage.	0	0
Investigation and/or major case management related to licensed or authorised recreational activities	Registered investigations and operations (including apprehension & arrest) related to licensed or authorised recreational operators. Preparation of documents up to prosecution stage.	0	0
Prosecutions	Activities undertaken by the Crown, including VFA staff assisting and briefing legal counsel	0	0
Education provided to commercial operators	Base education provided to commercial operators.	100	100
Education provided to recreational operators	Base education provided to licenced recreational operators	0	0
Community engagement	Engage with Agency and community stakeholders to ensure Fisheries requirements are included in agency planning processes	0	0

Fisheries Management Services

Function	Description	Cost Attribution to commercial fisheries (%)	Cost attribution to commercial fisheries following concessions %
Ministerial support	Requests for services from the Minister, Secretary, Deputy Secretary. All activities associated with directly supporting the above such as briefing requests, correspondence, speech notes and parliamentary briefing papers, etc.	0	0
Setting quota and harvest limits	All work associated with quota setting in wild-catch abalone, rock lobster, giant crabs and scallops including preparation of advice papers and briefs and consultation with industry. Setting harvest limits in other wild-catch fisheries such as setting catch limits, management controls, Fisheries Notices and Orders, etc.	100% of commercial proportion of total catch (commercial vs. non-commercial)	100% of commercial proportion of total catch (commercial vs. non-commercial)
Operational management of marine fisheries	Preparation of briefs and advice papers regarding management of marine fisheries. This includes: - providing management advice to the fisheries executive for decision making, including in relation to management controls other than harvest limits e.g. amendments to gear or improved reporting. - providing services to fishery authority holders e.g. responding to requests for information from bay and inlet, rock lobster and abalone fishers, etc. - internal coordination to inform external engagement and advice regarding abalone, rock lobster and giant crab, bay and inlet and coastal fisheries matters.	100% of commercial proportion of total catch (commercial vs. non-commercial)	100% of commercial proportion of total catch (commercial vs. non-commercial)
Operational management of freshwater fisheries	Preparation of briefs and advice papers regarding management of freshwater fisheries e.g. eels, bait This includes: - providing services to fishery authority holders e.g. responding to requests for information from eel fishers and bait fishers. - internal coordination to inform external engagement and advice regarding eel fishery and bait fishery issues.	100% of commercial proportion of total catch (commercial vs. non-commercial)	100% of commercial proportion of total catch (commercial vs. non-commercial)
Operational management of aquaculture fisheries	Preparation of briefs and advice papers and other activities associated with management of aquaculture operations. - stakeholder services (e.g. responding to requests for information from licence holders, institutions, aquaculture leaders forum – requests are often of a technical and time-consuming nature - e.g. EPA, CMAs, Primesafe, etc.). - responding to urgent safety matters (e.g. buoys that have drifted away from reserves, advising of algal bloom events, sewage overflows, etc.) - implementing projects under the Victorian Aquaculture Strategy (there are 24 projects in the Strategy (001 funded) (e.g. development	100	100

<i>Cont'd from overleaf...</i>	and promotion of tools and strategies for the aquaculture industry to enable value chain development and to demonstrate product integrity). management of Queenscliff shellfish hatchery contract (provides for facility access and R&D with the Victorian Shellfish Hatchery Pty Ltd).		
Regulatory services	All work associated with development and implementation of Act amendments and regulation making including the cost of a RIS	0	0
Emergency management	All work associated with emergencies	0	0
Fishery Management plans	All work associated with the preparation and operation of Fishery Management Plans. Note the intent that management plans will be established for all fisheries over the next 5 years.	100% of commercial proportion of total catch (commercial vs. non-commercial)	0
Translocation Evaluation Panel (TEP)	Includes administration of TEP and drafting guidelines and protocols, organising and attending meetings	0	0
	Processing of commercial applications, including for aquaculture and other commercial operators such as aquariums, etc.	100 (Fee for Service)	100 (Fee for Service)
	Processing of recreational related applications	0	0

Licence Administration Services

Function	Description	Cost Attribution to commercial fisheries (%)	Cost attribution to commercial fisheries following concessions (%)
Commercial Catch and Effort	Cost of running the C&E Unit – FTE and operating	100 (shared amongst commercial fisheries on the basis of amount of data collected)	65 (shared amongst commercial fisheries on the basis of amount of data collected)
Quota catch recording services	Administration of fisheries quota accounting	100	100
IT support systems for licensing and quota management	Future development, maintenance and enhancements	100	100
Commercial Licence & Quota administration	Includes licence & permit applications, transfers (including quota transfers), renewals	100 (Fee for service)	100 (Fee for service)
Recreational Licence administration	Recreational fishing licence data entry, renewal letters, etc.	0 (Funded from RFL Trust Account)	0 (Funded from RFL Trust Account)

Cost Recovery Administration Services

Function	Description	Theoretical Cost Attribution to commercial fisheries %	Cost attribution to commercial fisheries following concessions %
Cost recovery policy	Development and implementation of cost recovery policy	0	0
Cost recovery regulation amendment	Amending regulations for setting of fees, levies and royalties, including RIS cost associated with setting of commercial fees and levies.	100	100
Cost recovery IT	Development, maintenance and enhancement of specialist IT systems required for cost recovery	100 All costs shared across commercial fisheries and aquaculture	100 All costs shared across commercial fisheries and aquaculture
Cost recovery administration	The costs associated with operating the FCRSC and associated consultation with industry (including auditing the cost recovery system)	100 All costs shared across commercial fisheries and aquaculture	100% of the operating costs associated with the FCRSC and associated consultation with industry. Nil cost recovery for VFA staff time associated with cost recovery administration. Nil cost recovery for VFA costs incurred to manage the fishery-specific consultation forums in the two trial years.

Levies for cost recovery administration services are calculated on a ranking system to account for the relative proportion of inactive licences across a fishery. Individual licences do not receive a reduction in levies based on the level of activity of that licence. Levies will only decrease when the total level of inactivity within a fishery reduces the need for services.

Fisheries Policy Services

Function	Description	Theoretical Cost Attribution to commercial fisheries %	Cost attribution to commercial fisheries following concessions %
Ministerial support	All activities associated with directly supporting the Minister, Secretary and Deputy Secretary regarding fisheries management	0	0
Strategy and Policy	Development and implementation of policy General primary legislation and regulations (including RIS costs)	0	0

Basis on which Levies are to be charged

Under Section 151 and 151A of the Fisheries Act 1995, levies may be charged on licences, quota units or pots (in the case of rock lobster). The Fisheries (Fees, Royalties and Levies) Regulations 2008 give effect to these provisions of the Act.

At FCRSC meeting #28 of 22 November 2012, the FCRSC reviewed a discussion paper provided by VFA that outlined how fisheries services are currently levied, and options, including the pros and cons, regarding the distribution of levy payments under the proposed new cost recovery system.

VFA advised that, in principle, allocation of costs in a fishery should reflect who it is that creates the need for services and who benefits from them.

The FCRSC considered whether cost recovery should be based on production rather than licences. VFA noted that costs for some services were driven by the number of licences. The FCRSC noted that a charge on production would be seen as a tax, and results in cross-subsidisation of costs. VFA advised that as production is not known in advance, this approach would reintroduce retrospective elements into the system. VFA would also need to generate individual fisher invoices which is complex, and the level of production is not limited in non-quota managed fisheries. The FCRSC noted that levies based on production reduces the incentive to generate efficiencies in service provision.

The FCRSC concluded that it was more efficient and simpler to recover costs on the basis of licences (for non-quota managed fisheries).

At meeting #36 FCRSC noted the current approach to allocating costs across licences in a fishery, including non-active licences. Compliance and administration services are estimated with the proportion of non-active licences considered. Research and management services use an indirect approach. FCRSC noted that differentiating levies applied to active and non-active licences would be complex, require regulatory amendments and could increase costs on active licences. FCRSC agreed not to consider the matter further.

In regard to the three abalone fisheries, industry strongly supported maintaining the status quo, i.e. a small proportion of management costs attributed to the licence holder (14.2% WZ, 15.5% CZ & 9.5% EZ), with the remaining costs attributed to the quota unit. The FCRSC indicated that as quota is directly linked to the licence in the scallop fishery, that the status quo should also be maintained, i.e. 100% of costs attributed to the licence.

Industry suggested that costs should be apportioned 70% to the licence holder and 30% to quota units. The FCRSC noted that this approach would likely result in the reduction of latent licenses in the fisheries, which would be a positive outcome for these fisheries, and that industry may want to revisit the attribution of costs in the future, if/when the latent licenses are removed (e.g. when a certain number of licence holders are left).

The proposal contained in the RIS was to allocate costs 70/30 on licence/quota in the Rock Lobster and Giant Crab fisheries based on advice from the FCRSC.

Following the feedback received via the public consultation process, FCRSC reviewed the drivers of cost recovery, and proposed that the attribution of costs between quota and licence holders in these three fisheries be adjusted to distribute the costs 50/50 on licence/quota.

Cost recovery principle 1(b) states 'cost recovery systems should be designed to promote:

- a) economic efficiency; i.e. improve the allocation of resources in an economy by providing price signals for service provision that incorporate all of the relevant costs; and
- b) equity; i.e. those that benefit from a government service, or contribute to the need for a service, should pay for the associated costs. Where a number of groups benefit from a service, costs should be apportioned'.

Cost recovery has two further criteria:

- Beneficiary pays – the proposition that those who benefit from the provision of a good or service should pay for it; and
- Impactor pays – A principle requiring impactors to meet the full costs, including external costs, of their actions.

The matter is complex, however, it is considered that costs are largely driven by licence holders, but that the beneficiary is largely quota unit holders. Therefore, a charge largely on quota would cross-subsidise licence holders. Based on an estimation of the cost drivers for services, and applying both cost allocation criteria, an allocation of 50/50 between licence and quota was suggested.

Following the feedback from the FCRSC, the Minister approved the 50:50 allocation of costs in the rock lobster and giant crab sectors between licence and quota holders (rather than the 70:30 proposed in the RIS), which eases pressure on smaller quota owners.

It is anticipated that the need for cost recoverable services will change periodically. For short term changes, this will be managed through waiver and exemption clauses from the Fisheries (Fees, Royalties and Levies) Regulations.

For permanent changes, adjustment to the service schedule for a fishery will occur through consultation between government and licence holders under the guidance of FCRSC.

Where a service is introduced, or an existing service is extended part way through the licensing year, no additional levy will be recovered for that service in that year.. A levy increase may occur in future years.

At FCRSC meeting #29 of 14 December 2012, the Minister confirmed that levying the three abalone zones at 7.21% of GVP would continue. However, there is not an option for abalone industry to be provided or expect services up to the limit of 7.21% of GVP. The level, or extent, of services provided to each zone is capped at the current level. This would erode the royalty return to the consolidated fund. If additional services are required, the Minister expects the Department and industry to find smarter ways of providing the services that are needed, or find services that are a lower priority compared to new services.

For all fisheries, the challenge is to find ways of doing things better (more cost effectively) and consider ways to better involve industry in directly delivering services with the right checks and balances.

Fee Units

The Victorian Government has a policy of automatically indexing levies, fees and fines each year for inflation, so that the real value of those levies, fees and fines is maintained.

Levies, fees and fines are officially set and revised by legislation relevant to their application [e.g. Fisheries (Fees, Royalties and Levies) Regulations 2008].

Levies will be set in Fee Units so that there is an automatic annual adjustment for changes in consumer prices (i.e. the Treasurer's CPI adjustment to the value of a Fee Unit).

The annual rate is set by the Treasurer, and is relevant to:

- the annual automatic indexation of the amount of a fee unit or a penalty unit for the next financial year (section 5(4) of the *Monetary Units Act 2004*); and
- determining the maximum amount that fees and fines can be increased in the next financial year without the obligation for a Regulatory Impact Statement to be completed (section 8(1) (d) of the *Subordinate Legislation Act 1994*).

Without indexation via the use of fee units, there would be significant administrative work and cost in undertaking Regulatory Impact Statements on a regular basis.

The outcome of public service employment agreements may also mean adjustments are necessary.

Abalone royalty

Section 150 (1) of the *Fisheries Act 1995* (the Act) provides for the imposition of a royalty in respect of any licence or permit. S150 (1A) provides the same in respect of an individual quota unit.

S 150 (2) the Act provides for the making of regulation to prescribe a royalty in a variety of ways. S 150 (3) provides for the regulations to prescribe the manner in which and the date by which the royalty is to be paid.

Levies

The Act (sections 151 (1) and (1A)) provides for the charging and collection of a levy on a prescribed class of licence or permit, and on individual abalone quota units, respectively. S 151 (3) provides for the making of regulations to prescribe the manner in which, and the date by which a levy is to be paid.

Regulations

The Fisheries (Fees, Royalties and Levies) Regulations 2008 (the Regulations) specify in r14 (Royalty for individual abalone quota unit) that the royalty payable (R) in respect of abalone quota units is the amount calculated in accordance with the formula

$$R = (0.072 \times \text{GVP}) - (\text{FMS} + \text{FRDC})$$

where—

GVP is gross value of production

FMS is the levied amount recovered for services provided by VFA

FRDC is the amount collected to pass on to Fisheries Research and Development Corporation (0.25% GVP)

As outlined above, the regulations currently specify that the combined royalty, FRDC levy and cost recovery payable annually in the three wild-catch abalone fisheries is limited to 7.2% of Gross Value of Product. This figure was reached by agreement with government.

At FCRSC meeting #29 of 14 December 2012, the Minister advised industry that levying the three abalone zones at 7.2% of GVP would continue, however there is not an option for abalone industry to be provided or expect services up to the limit of 7.2% of GVP. This is not guaranteed by the regulatory framework. Levies go to the consolidated fund and there is no further money available for additional services.

If VFA's appropriation is reduced, levies for the non-abalone fisheries would go down as services are reduced. However, the abalone sector, would continue to pay the same amount (7.2% of GVP) per annum irrespective of the level of services delivered by VFA.

Recoverable Costs Fund Sources

Only fund sources 001 (State Recurrent Funding) and 002 (Capital) are subject to cost recovery from the commercial fishing sector. Other sources are either specific government initiatives (e.g. 039 – Marine Parks Initiative), are funds sourced from the recreational fishing sector (e.g. 448 – Recreational Fishing Licence Trust Funds), or are provided from external sources (e.g. 371 - Fisheries RDC). Any future Budget and Expenditure Review Committee (BERC) bids should specify whether initiative funds are subject to cost recovery or not.

At meeting 41, FCRSC noted that cost recovery levies go to the consolidated fund. Funding then comes to Fisheries via appropriation and a section 29 provision.

Cost Recovery Cycle

The levies will be set initially on the basis of the expected service to be provided on average each year over four years.

The first two years (2014/15 and 2015/16 licensing years) of the prospective cost recovery system will be trial years. The approach will be reviewed towards the end of the first and second years. Any required amendments/adjustments will be made prior to March 2016 (for the 2016/17 licensing year). Subsequently, for the following four years, regulatory amendments will not be undertaken unless major anomalies are identified.

Wherever possible, there should be alignment between Fishery Management Plans and the cost recovery cycle. Fishery Management Plans should contain the objectives, strategies and services for fisheries and therefore close links to cost recovery.

Refer to page 32 to view the cost recovery annual timetable.

Treatment of Marine Parks Offset Funding

The Victorian Government has provided ongoing funding since 2001/02 to significantly strengthen the State's fisheries compliance capabilities as an offset. This includes additional fisheries officers, special investigators and intelligence analysts to reduce the impact of illegal fishing, particularly for abalone.

In 2011/12 fisheries education and enforcement budget was \$14.66 M (made up of State Vote \$6.10 M; Marine Parks Offset \$ 6.39 M; Recreational Fishing Licensing Trust \$2.03 M; Recreational Fishing Initiative \$0.15 M).

There is a clear agreement within VFA that there will not be recovery of costs for delivery of services funded from Marine Parks Offset funding.

Schedule of Services

A schedule of services has been constructed for each fishery. These schedules list the activities/functions/services to be delivered under cost recovery categories, the staff FTEs (full time equivalents), operating expenses involved, and the derived levies. The schedules establish the deliverables/milestones (including the level of services) to be provided for each fishery under the prospective cost recovery system.

These schedules form the basis for consultation with industry (through FCRSC and/or new groups established for the purpose of fishery-specific consultation). These discussions will need to involve representatives/managers from each branch of the VFA involved in the delivery of the services. These schedules, with any adjustment, will be used to set the levies for each fishery.

Adjustment to services and levies

The schedules have been developed to reflect the expected "average" level of delivery over the four year period. In general there will not be amendment of the levies within the four year period where more effort is put into some areas of delivery and/or fisheries, and less into others, or where there is under or over expenditure in some areas. i.e. it is not

proposed that there be a system of “overs and unders” adjustments (but see below for some specific exceptions). It is acknowledged that planning cannot be precise, and that delivery across fisheries will be variable due to the need to deal with unexpected issues.

There may be circumstances where a deliverable is materially not delivered or a milestone materially not met. This will be evident through twice yearly cost recovery reporting, and the cost recovery final report produced annually. The response to under delivery will depend upon the circumstances prevailing:

- a) If resources are diverted to another fishery permanently, where the activity is recoverable, a corresponding reduction will be made to the levies in the fishery with reduced levies, and an increase will be made to the levies in the fishery that receives the increased services (such an increase would require regulatory amendment). [NB there is currently capacity to effectively reduce levies by Ministerial exemption where services are not delivered, but increasing levies will require regulatory amendment].
- b) If resources are moved to non-recoverable services / activities, a corresponding reduction will be made in the following year to the levies in the affected fishery.

If non-delivery is the result of material change in scope or nature of the service / activity, or non-performance, the matter will be discussed with the FCRSC and/or the affected fishery levy payers. This will result in consideration of corresponding adjustments to levies payable. In general, if there has been no delivery of a cost recovered service, an adjustment to levies will be made in the subsequent year (refer to levy adjustment).

What if there is a substantial reduction in VFA's funding sources / staff complement / indirect costs that mean scheduled services cannot be delivered? The impact on cost recovered services will need to be assessed, and adjustments made to the schedules/services and levies for subsequent years.

Additional cost recoverable services

The general tax payer will not fund additional services.

Representatives of a fishery may want additional services above the level specified and be prepared to fund those services. In those circumstances industry and VFA will discuss the design and delivery of the new services and the costs involved. The proposal will be fully specified and costed. Consultation will occur. Consideration will be given to whether the new services can be achieved by re-design or efficiency improvements in current services, or reprioritisation of existing services, or delivery of those services externally to VFA with suitable monitoring. If, at the conclusion, a decision is made to proceed with new services delivered by VFA - agreement with Treasury to increase funding to VFA to allow the services to be delivered would need to be reached (note, there is currently no hypothecation of funds). This could be achieved by a successful new initiative bid. If additional services were funded, the service will be added to the schedule and levies adjusted accordingly. VFA may also need to recruit etc. if necessary to deliver the new services.

The schedules of services will be reviewed so that adjustments can be made at the end of the four year period. VFA will repeat the exercise used to construct the schedules – managers will be asked to estimate the staff time (FTEs) that would be spent on activities/functions/services delivered under the cost recovery categories over the next four years.

Direct and In-direct Costs

Direct costs include labour (including on-costs) and materials only used to produce the service.

Indirect costs include corporate services costs such as the Victorian Fisheries Authority (VFA) salary costs, financial services, human resources, records management or and information technology. Indirect costs also include capital costs.

Because the cost recoverable services account for the bulk of the VFA activities, the 'Wild Catch Fisheries and Aquaculture Cost Recovery Review' recommends (Recommendation 3) that direct, indirect and capital costs be included in the cost base for the fisheries management activities.

All VFA internal levies are included in the calculation of recoverable costs from the commercial fishing sector under the proposed new fisheries cost recovery system as these are indirect costs.

Executive Management Costs

The costs associated with the VFA Board, Chief Executive Officer, the Business Management Team, Directors and their assistants will not be subject to cost recovery.

FRDC Levy

The FCRSC noted that it is FRDC policy that the FRDC Levy is based on 0.25% of GVP. This level is applied nationally. This is a levy collected by government on behalf of the Victorian industry.

SIV Levy

The FCRSC supported the regulatory amendment required to maintain the SIV funding through calculation of the Grants levy.

Emergency Management

An emergency is defined in the *Emergency Management Act 1986* as 'An emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including, without limiting the generality of the foregoing:

- a) an earthquake, flood, wind-storm or other natural event; and
- b) a fire; and
- c) an explosion; and
- d) a road accident or any other accident; and
- e) a plague or an epidemic or contamination; and
- f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; and
- g) a hi-jack, siege or riot; and
- h) a disruption to an essential service;

Emergency activity means-

- a) performing a role or discharging a responsibility of an agency in accordance with the state emergency response plan or the state emergency recovery plan; or
- b) training or practising for an activity referred to in paragraph (a) or being on active standby duty; or
- c) travelling to or from the place where an activity referred to in paragraph (a) or (b) has occurred or is to occur.

Emergency responsibilities

VFA is currently a primary (lead) agency for relief and recovery services for animal welfare, food supply continuity, and rural recovery.

The VFA is primarily responsible for responding to fishing induced stock depletion. The VFA has a supporting role to assist Biosecurity Victoria respond to marine pest incursions, fish or fisheries contamination (noting the VFA is a support agency for responding to these types of emergencies) and other agencies (e.g. CFA) in case of fire. The VFA also has a support role to the Department of Health, for responding to blue-green algae blooms.

In line with the above emergency management arrangements, there are circumstances where VFA services may be diverted to assist with emergency response which may materially affect the level of FV services delivered. In line with the 'Guidelines for the operation of the prospective cost recovery system', where there is a material reduction in the level of services FV delivers, consideration could be given to waiving or reducing levies (and/or fees where appropriate) in the subsequent year for affected fisheries.

Emergencies could include (but are not limited to):

- Marine biosecurity (including fish disease outbreaks)
- Land biosecurity
- Flood, Fire, Heatwave, rural recovery (including supporting rural landholders following flood and bushfires)
- Pollution of inland waters
- Vertebrate pest / plagues
- Ship sourced marine pollution oil spills (in Victorian coastal waters up to three nautical miles)
- Food / drinking water contamination (including blue/green algae outbreak contaminating seafood, heavy metal contamination)
- Cetacean (whale) stranding or entanglement
- Drought

Cost Recovery Principle ix states 'Where resources are diverted to non-recoverable services (e.g. emergency services) or are materially under-delivered, a corresponding adjustment to future levies or future services should be made'.

The VFA officers may be deployed to support emergency services work. In those circumstances, the time (in FTEs) will be recorded and corresponding adjustments made for the cost recoverable services affected. This would be achieved by adjusting the levies paid for services set out in the schedules not delivered. Levies would be reduced in subsequent years for the services / fisheries affected. It is proposed to do this via a full or partial Ministerial exemption from payment of levies in the coming year(s). Cost adjustments would be undertaken following discussion with the FCRSC.

Levy adjustment

Under s151 (6) of the Act the Minister may give an exemption to any person or class of persons from the payment of a levy in accordance with the Regulations. The Act provides for the creation of Regulations to provide a reduction, waiver or refund of a levy in whole or in part. The legal ability to reduce or waive levies relates to the non-provision of statutory obligations, i.e. statutory services. Regulations have been promulgated to enable the reduction or waiver, in whole or in part, of levies in prescribed circumstances that relate to the non-provision of services.

A reduction or waiver could be provided according to the range of circumstances which resulted in a material reduction in services, e.g. marine biosecurity, drought, pollution of inland waters, floods, fire, water contamination, etc. How long that reduction or waiver would apply would depend on the severity of the impact on the level of services provided and the duration of the circumstances. (It is expected that the reduction or waiver would apply for the licensing year the adjustment was applied to, and require reconsideration at the end of that period).

Generally:

- Any reduction or waiver of levy payment to be applied against the levies in the subsequent year.
- Any reduction or waiver of levy payment would apply to classes of levies specified in the Fisheries (Fees, Royalties and Levies) Regulations 2008 (the Regulations).
- A reduction or waiver may apply to any class of levy (Management FMS, Compliance FMS, Research FMS, FRDC or Grants) as dictated by the particular circumstances and services affected by the “emergency”.
- A reduction or waiver may apply where there is material variance in the delivery of a scheduled service(s), and the cost of amending the levies is less than the value of adjustment to be made.
- Material is defined as 25% or greater variance in the delivery of service milestones for a function specified in the service schedule for that fishery.
- Permanent adjustment to levies (i.e. beyond temporary reduction or waiver) should occur at the 4-yearly review.
- Where there is a material variance in the level of services delivered, as measured by the service milestones for a function, levies would be adjusted in proportion to the variance in service milestones delivered for a function, applied on a per levy class and per fishery basis. i.e. if 25% of a function of fishery management services were not delivered, fishery management levies would be reduced by 25% for that fishery.

In circumstances where there is a change in licence ownership from one year to the next, it was agreed that any reduction or waiver would accrue to the licence holder at the time of next licence renewal.

VFA has made a commitment to industry to deliver 100% of services, wherever possible.

The FCRSC noted that due to the 7.2% GVP cap on fisheries cost recoverable services, FRDC levy and royalty for wild-catch abalone fisheries, no reduction or waiver would apply, if services were reduced, as the amount of levies paid is fixed at 7.2% of GVP.

The FCRSC noted that the prospective cost recovery system has provision to waive/reduce the following year's levies for the non-provision of services. This is a very strong form of accountability by VFA to industry for the non-provision of services.

Where an emergency leads to fishery closure

Where quota is set at zero or a fishery closed by Fishery Notice, and no services are provided, levies would be reduced or waived (subject to the necessary regulations being in place). Where the fishery is permanently closed a regulatory amendment would be required to remove, in the longer term, the requirement to pay levies.

Consultation

In practical terms, if FV services were diverted to address an emergency where lives, livelihoods and properties were at stake there would not be any consultation with fishers.

Assistance where primary producers adversely affected by emergency

VFA is responsible for the administration of specific financial assistance programs for primary producers and rural land managers subject to specific government approval (generally only available following natural disaster emergencies and on a case-by-case basis). Support assistance is also provided on a case-by-case basis through insurance companies, financial institutions and public appeals (Emergency Management Manual Victoria 2012 p7-9, 8-5).

Reference

The Emergency Management Manual Victoria is the reference document for managing Victorian emergencies (Department of Justice (2012) 'Emergency Management Manual Victoria', Policy and Legislation, Melbourne). It contains policy and planning documents for emergency management in Victoria, and provides details about the roles different organisations play in emergency management arrangements. It has been drawn on in the preparation of this material. It is publicly available at: <http://www.oesc.vic.gov.au>

Structural adjustment

In line with any government policy on structural adjustment, government might be involved in targeted adjustment responses where:

- regional impacts for an industry sector, especially on local communities and families, are seen to be sudden and excessive;
- general welfare measures (for loss of income, unemployment) are proving inadequate; and
- there are clear net benefits to the community.

Any structural adjustment assistance would likely be provided by the State in concert with the Commonwealth. Assistance would vary on a case-by-case basis, and any government support should avoid undermining incentives for individuals to manage climate related risks, through diversifying investment, employment in different fields, relocation etc.

Dealing with hardship

Once the licensing year has commenced, the option to provide an exemption to a licence class no longer applies. The Minister can approve a waiver, or reduction, based on non-provision of services, that will apply to levies in the following year. The VFA can also provide support to fisheries impacted by severe environmental impacts in a number of ways such as operational management, licensing conditions, or assisting with intergovernmental arrangements.

Concessions

Pre - RIS

Following industry feedback regarding the large level of increases to levies across a number of fisheries, VFA outlined the following proposals to mitigate economic impacts on industry with a particular focus on impact of smaller businesses, advising that the Minister had approved consideration of these options by FCRSC:

1. Nil cost recovery for intelligence and investigation aspects of commercial compliance;
2. Nil cost recovery for surveillance aspect of compliance;
3. Nil cost recovery for VFA component of cost recovery administration (i.e. still recover the costs incurred by the FCRSC and any additional cost recovery consultation processes);
4. Nil cost recovery for the preparation of Fishery Management Plans;
5. Adjusting the proportion of commercial and recreational catch for relevant finfish fisheries;
6. A 'small operator' concessionary level of cost recovery (i.e. levies would be capped at \$500 [CPI would be applied each year thereafter in line with all fisheries] for wild-catch and aquaculture licences where the average production per licence across the licence category is less than 500kg per annum (or less than 500kg growout for Aquaculture licences); and
7. Reduced recovery for catch & effort administration (i.e. adjust recovery from 100% to 65%).

The FCRSC provided its unconditional support for proposals 3, 4, 5, 6 and 7.

The FCRSC provided their unconditional support for proposals 1 and 2 for all fisheries except for the three abalone zones. Regulations currently specify that the combined royalty and cost recovery payable annually in the abalone fishery is limited to 7.2% of GVP (Gross Value of Product). As the abalone fisheries pay 7.2% of GVP for costs incurred plus a royalty, the abalone industry representatives wanted to continue to 'pay' for compliance costs (as opposed to pay less costs and a higher royalty) as a form of insurance that those services continue to be delivered by VFA.

The FCRSC noted that there were other options to address this situation including a proportional change to all services with a decline in VFA's budget. The provision of services would always need to consider the services necessary to address the risks and statutory obligations arising in managing a fishery at the current level of harvest.

The FCRSC agreed to keep the services that have been adjusted to nil cost recovery in each schedule other than wild-catch abalone, but that VFA should only report against the services that are cost recovered from industry.

VFA maintain that the level of recovery (either 0% or 100%) for intelligence, investigations and surveillance costs should be the same for each abalone zone. The three wild-catch abalone fisheries are already treated differently than the

remaining commercial fisheries due to the 7.2% cap, and introducing different levels of recovery for different abalone fisheries would create further complexity and does not comply with one of the cost recovery principles to have an administratively simple cost recovery system. Applying a concession does not reduce the costs incurred to deliver the service; it just reduces the amount of costs recovered from industry, and increases the level of cross-subsidisation from the tax-payer. The cost to deliver the service remains the same.

Across all fisheries, these concessions reduced the level of costs to be recovered by 20 per cent (excluding the reduction due to the phase-in).

Post RIS

Following the release of the RIS and consideration of submissions and advice from FCRSC, the Minister agreed to the following concessions/adjustments:

- nil cost recovery from the abalone sector for compliance costs associated with surveillance, intelligence gathering and analysis, and investigations;
- a further reduction in compliance costs for the wrasse, Gippsland Lakes, Port Phillip Bay purse seine fisheries, abalone fish receivers, and the following aquaculture licence classes:
 - crown land off-shore, crown land abalone, crown land bivalve shellfish, crown land other, and
 - private land marine, private land yabbies, private land salmonids, private land indoor intensive, private land warm water finfish, private land ornamentals, private land eels, private land other;
 - extension of the small operator concession to the aquaculture sector on the same basis as for the wild-catch fisheries, reducing cost recovery from the following licence classes: crown land off-shore, crown land abalone, crown land eels, and
 - private land marine, private land other;
- provision of the small operator concession to the Sydenham Inlet bait fishery; and
- 50:50 allocation of costs in the rock lobster and giant crab sectors between licence and quota holders (rather than the 70:30 proposed in the RIS), which eases pressure on smaller quota owners. In 2014, this was again reviewed and determined that a 30:70 split more accurately described the risk posed and benefit accrued. This allocation will apply unless further review deems a change is necessary.

Other adjustments to levy values also made were:

- a reduction in costs for research in the Gippsland Lakes (VFA and industry worked together to refine the science program for this fishery);
- an increase in recoverable costs for licence and cost recovery administration (due to an incorrect value being included in the RIS); and
- a small increase in compliance costs for crown land eel aquaculture licence holders.

All pre- and post-RIS concessions and adjustments will now amount to recovery of 70 per cent of the initially proposed recoverable costs. After concessions and adjustments, total costs recovered after phase-in will be \$3.31 million (in 2012/13 dollar terms).

Other changes to the cost recovery regulations

The Minister also agreed to the inclusion in the Fisheries (Fees, Royalties and Levies) and Fisheries Amendment Regulations 2014 of provisions to allow for:

- an automatic adjustment to the Grants Levy collected for the funding of SIV so that the revenue to SIV is maintained (plus the Treasurer's adjustment for inflation) from year to year; and
- the variation of the FRDC (Fisheries Research and Development Corporation) levy from year to year in line with changes in the Gross Value of Production from each fishery.

At FCRSC #38, it was agreed that levies would be waived for commercial fishing licences that were operated on a not for profit basis and staffed entirely by volunteers. The licence renewal fee would still be charged for these operations and shifting of costs to other licence holders not permitted..

Phasing in of Levies

The Minister has confirmed that the prospective cost recovery system will be phased in over a three year period. This will ease the initial impact on licence holders and provide opportunities for further consideration of necessary services and technology that could continue to improve efficiency.

The phase in will be from 1 April 2014 (i.e. the first trial year of the new prospective cost recovery system) of 30% of the total costs to be recovered, 60% of the total recoverable costs to be recovered in year two prior to the system being fully implemented for the 2016/17 (100%) licensing year.

The FCRSC agreed that this approach provided an incentive for industry to work more closely with VFA to improve efficiencies, thereby reducing costs/levies. Industry advised that some commercial operators may choose to gear up and increase their catch and effort to offset any increase in levies.

The FCRSC noted that this approach enabled the eel fishery greater recovery time from the recent drought. It would also enable greater time for the Australian dollar to go down from its record high level in 2012/13, thereby increasing the profitability of Victoria's fisheries that export fish and their ability to absorb the increased levies.

The FCRSC agreed that the invoice issued by VFA would display total costs incurred, then the concession applied and the amount owed by the commercial operator.

New fishery

What if a new fishery emerges? Industry and VFA will discuss the design and delivery of services for the new fishery and the costs involved. This proposal will be documented and costed. Further consultation with the FCRSC will occur. The service will be added to the schedule (or a new schedule constructed) and levies adjusted accordingly through a regulatory amendment. DTF will need to agree to increase State Vote (001) funding so that VFA will have the human resources and operating funds to provide the required services. Alternatively, some services could be delivered by industry, subjects to standards set and monitoring.

What happens if there is a reduction in the number of licences in each fishery?

If there is a reduction in the number of licences in a fishery, will the costs on the remaining licence/quota holders in the fishery increase, i.e. costs of managing the fishery spread amongst fewer licences?

VFA advised the FCRSC that the answer is, in general, yes. In the case of a stock assessment, the FCRSC noted that a stock assessment would need to be conducted irrespective of the number of licences. So a reduction in licences in the fishery would increase the levies of the remaining licence holders.

In the case of compliance, fewer licences in the fishery would result in fewer inspections conducted in the fishery. In this case, there would not be an increase on remaining licence holders.

The FCRSC again reaffirmed its position that the best way to lower any levies for industry, due to a reduction in licence numbers or otherwise, was for VFA and industry to work together to improve service delivery, become more efficient, thereby reducing the costs incurred, and subsequently recovered from industry via levies.

If for any reason the holder of a licence (Access Licence or Aquaculture Licence) no longer wishes to hold the licence, it can be transferred (sold) in the case of the licence classes listed in Table 1.

- Section 50B of the Act specifies that a fisheries licence is not transferable unless the regulations permit the transfer of a licence of that category or class.
- For the purposes of s50B of the Act, r15 (1) and (2) of the Fisheries Regulations 2009 specify which commercial licences are transferrable (see Table 1). Non-transferrable licences are listed separately in Table 1.

Alternatively, non-renewal of a renewable licence will lead to its expiry.

- Section 57(1) of the Act and r20 of the Fisheries Regulations 2009 specify renewable licence classes (i.e. all commercial fishery access licences, all fish receiver licences and all aquaculture licences).
- Regulation 6(1) of the Fisheries (Fees, Royalties and Levies) Regulations 2008 requires that an application for the renewal of a renewable licence be made by a date specified by the Secretary (or his delegate).
- Failure to pay annual fees, royalties or levies by the prescribed date will lead to cancellation of a renewable licence or permit (s58 (2) (b)).
- Under r21 of the Fisheries Regulations 2009, a number of licence classes are capped (see Table 1). This means that when a licence expires or is cancelled, it is lost to the fishery (i.e. it cannot be re-issued to any person or body). In this event, the number of capped licences in the particular fishery class is reduced by the number cancelled or expired.

Quota

Rock lobster and Giant crab quota units are linked to the respective licences. Under s65A of the Act, quota transfers may be actioned on a temporary basis (where the quota returns to the original licence at the start of the new licensing year) or on a permanent basis where the quota becomes the permanent entitlement of the buyer.

All scallop access licences have the same number of quota units permanently attached but quota may be temporarily transferred between licence holders.

In the case of the abalone fishery, quota units are a separate entity from the licence. Under s66K of the Act, abalone quota units may be transferred from one entity to another.

Levies – Levy payments on abalone quota units (r20 and 21) must be made by the date specified by the Secretary in r23(2).

Failure to pay levies and/or royalties on quota units can lead to their forfeiture or cancellation. However, the Secretary has discretionary powers to reallocate (including through sale) forfeited quota units (s65B(1)(c) and s66L(1)(c)).

Royalties - Royalty payments are made on abalone quota only. Failure to pay royalties can lead to forfeiture of individual quota units.

Under section 66Q of the Act, failure to pay the royalty or levy specified in the Fisheries (Fees, Royalties and Levies) Regulations within 12 months will result in cancellation of the individual abalone quota unit on the day after the end of that period. Failure to pay within 14 days of specified date for payment will lead to suspension of the quota unit until it the payment is made or the quota unit is forfeited.

TABLE 1 – Transferrable and non-transferable commercial licence classes

Transferable Licences	Non-Transferable Licences
Abalone Fishery (Western Zone) Access Licence*	Gippsland Lakes Fishery (Mussel Dive) Access Licence*
Abalone Fishery (Central Zone) Access Licence*	Lake Tyers (Bait) Fishery Access Licence*
Abalone Fishery (Eastern Zone) Access Licence*	Ocean Fishery Access Licence*
Corner Inlet Fishery Access Licence*	Port Phillip Bay (Mussel Bait) Fishery Access Licence*
Eel Fishery Access Licence*	Purse Seine (Ocean) Fishery Access Licence*
Giant Crab Fishery (Western Zone) Access Licence*	Purse Seine (Port Phillip Bay) Fishery Access Licence*
Gippsland Lakes Fishery Access Licence*	Wrasse (Ocean) Fishery Access Licence*
Gippsland Lakes (Bait) Fishery Access Licence*	Bait (General) Fishery Access Licence
Mallacoota Lower Lake (Bait) Fishery Access Licence*	Fish Receivers' (Abalone) Licence
Rock Lobster Fishery (Western Zone) Access Licence*	Fish Receivers' (Scallop) Licence
Rock Lobster Fishery (Eastern Zone) Access Licence*	
Scallop (Ocean) Fishery Access Licence*	
Scallop (PPB) Fishery Access Licence	
Sea Urchin Fishery Access Licence	
Snowy River (Bait) Fishery Access Licence*	
Sydenham Inlet (Bait) Fishery Access Licence*	
Trawl (Inshore) Fishery Access Licence*	
Western Port/Port Phillip Bay Fishery Access Licence*	
Aquaculture (Private Land—Eels) Licence	
Aquaculture (Private Land—Marine) Licence	
Aquaculture (Private Land—Ornamentals) Licence	
Aquaculture (Private Land—Other) Licence	
Aquaculture (Private Land—Salmonids) Licence	
Aquaculture (Private Land—Warm Water Finfish) Licence	
Aquaculture (Private Land—Yabbies) Licence	
Aquaculture (Private Land—Yabbies Multiwaters) Licence	
Aquaculture (Private Land—Indoor Intensive) Licence	

Aquaculture (Private Land—Tourism) Licence
Aquaculture (Crown Land—Bivalve Shellfish) Licence
Aquaculture (Crown Land—Other) Licence
Aquaculture (Crown Land—Abalone) Licence
Aquaculture (Crown Land—Eels) Licence
Aquaculture (Crown Land—Offshore) Licence
Aquaculture (On-shore Abalone) Licence

* means class of licence is capped.

During the development of this system, the FCRSC noted that the costs for the remaining licence/quota holders in the fisheries may increase (i.e. costs of managing the fishery spread amongst fewer licences), and cited the example that occurred in the Commonwealth fishery. Whilst there will be a minimum level of management and research costs incurred to sustainably manage the fishery, total compliance costs could be reduced as a result of less licence holders (i.e. do not increase the number of inspections on the remaining licence holders, conduct the same number of inspections, and reallocate time that would have been spent inspecting licence holders who are no longer in the fishery to other fisheries or non-cost recoverable services). Management costs could theoretically be reduced as there would be less operational management costs incurred as there would be fewer queries from licence holders to respond to.

Options to prevent fishery closure under cost recovery

Option 1 - Efficiency improvements identified through further review of the nature and extent of services provided to each fishery (given the same risk profile of the fishery).

Option 2 - Adjusting the risk posed by a fishery through adjusted management arrangements, i.e. trading off reduced services with reduced catch (lower risk to the sustainability of the fishery). For example, reducing the catch limit could reduce the risk posed by commercial fishing in a given fishery and therefore require less extensive stock assessment activities.

If, after Options 1 and 2, with the minimum of services being provided to deliver statutory obligations for sustainable management, and addressed the risks posed by the fishery, the fishery remains unprofitable to pursue, the fishery may not continue.

Any alteration or changes to the cost recovery approach would be done in consultation with the FCRSC and affected entitlement holders.

Treatment of levies when a fishery is closed

The basis for the prospective cost recovery system is charging for the services delivered in line with the principle that commercial entitlement holders pay for the cost of services from which they benefit and pay for services delivered to address risks they create. The charges will be established in the regulations on the basis of the anticipated level of services annually for the four-year cost recovery period.

If it is known in advance that a fishery is to be closed, VFA would review with industry the services to be provided to the fishery and identify which services would need to be provided into the future.

VFA would charge for any services provided to the fishery, this would include any stock assessments required to re-open the fishery. The service schedule, including service costs would be adjusted accordingly.

Given a review of services:

- a) If the closure was expected to be of short to medium term, the cost recovery levies could be exempt from payment, reflecting the revised level of service (based on Ministerial endorsement of the exemption).

Where temporary cessation of fishing is mandatory through the application of a statutory instrument (e.g. Fisheries Notice), it would be expected that all licences in the fishery are equally affected. The cost recovery levies may reduce, or cease, for all four services and be applied to all licences in the fishery.

Where temporary cessation of fishing is because of inadequate economic returns (e.g. dry conditions), not all fishers may choose to cease fishing. Under these circumstances, the full levy should be applied to active fishers. But, for those fishers who choose not to fish for the whole licensing year, the levy value may be applied on a pro-rata basis, in accordance with the following rationale:

1. Management Services – Levies applied on a whole of fishery basis because Management Services continue to be required.
 2. Compliance Services – The number of inspection for the fishery is directly related to the number of active licence holders, therefore, only the active licence holders should be charged the prescribed levy for inspection services.
 3. Research Services – These services are required on an on-going basis, so all licence holders should be charged the whole of the prescribed levy value.
 4. Administration Services – Catch and Effort data collection only relates to active licences (therefore, these services should be charged against active licences only). The cost of all other administrative services (e.g. FCRSC administration) should be charged at the rate per licence prescribed in the regulations.
- b) If the closure was expected to be for a longer term, amending the cost recovery regulations would be considered to reflect the level of service provided. A significant consideration would be whether there was a likelihood of the fishery being re-opened in the foreseeable future.

The nature and extent of services provided to the fishery would be reviewed annually, as part of the annual process of consulting with industry on the key activities and deliverables/milestones listed in the schedules for each fishery. Following this review, services and levies would be adjusted in line with the above information.

Any fishery closure would be done in consultation with affected entitlement holders.

Time Recording

The FCRSC has agreed that it is not proposed to use a fully integrated time recording because of the expense (time and IT systems) required. The key matter of interest in the operation of the system is whether the identified activities and services are delivered as planned and milestones met.

There is a need for transparency about the delivery of cost recovered services, but also the need for practicality and simplicity. The FCRSC acknowledged that it would be the deliverables and milestones that would be important within any year, rather than hours or dollars which would be costly to track. Regular feedback and reporting at the fishery level to both the FCRSC and the fishery-specific forums is essential.

Consideration may be given to 'sampling' of time for delivery of services on a case by case basis, ie time recording for a period, for a service, to ascertain the time spent on an activity. Requests for sampling in this manner will be initiated through agreement with FCRSC.

20 Day milestone

The FCRSC sought further clarification from VFA as to the rationale behind setting a milestone within management of 20 business days to respond to general and research permits. Industry opined that this is too long.

The VFA strives to provide a high level of service in responding to correspondence and processing permit applications but must manage the time allocated to them in the context of other priorities, workloads and staff availability.

Industry requests for information and comments range from phone calls to formal written requests. In almost all cases FV responds within 20 working days and often immediately. Where responses take an extended period of time it is generally due to the need for additional information, to obtain approvals and or to manage workloads or other priorities including the other correspondence that we must reply to. A target of answering 95% of requests within 10 days could have a perverse effect on the quality of service delivery as easy-to-answer queries are deferred while staff reply to more complex questions.

FV has Standard Operating Procedures (SOP) that it follows to ensure that permit applications are considered consistently and as promptly as possible. Each permit must however be assessed on the nature of the requested activity, work priorities and the need for additional information which cannot be compromised by limits on processing time.

The response times to simple queries are much shorter. For example, the Abalone Fishery Manager receives on average 15 emails and 10 telephone calls per week from the commercial abalone industry. These types of queries are addressed in a very short time-frame.

The 20 business days milestone is an upper limit, set to provide for more complex queries that may require additional effort to collate and prepare a suitable response. For example, the relevant staff member may need to consult with the research branch, legal branch, senior management, etc. on a particular matter.

The VFA commercial licensing unit, which consists of four staff members, process an average of 3,573 applications per year (3 year average), made up of:

- Licence applications - 9;
- Licence transfers - 28;
- Abalone quota nominations - 38;
- Boat replacements - 54;
- Operator change - 79;
- Pot transfers - 41;
- Boat registrations - 42;
- RL/GC Quota transfers - 186;
- Licence variations - 7;
- Licence, Boat & Quota unit renewals - 2,906;
- Permit (non-complex) - 156; and
- Permit (complex) - 26.

VFA provided the FCRSC with two SOP's that outline the steps involved that VFA staff must follow in regards to the issuing of a permit (both general and research).

As illustrated in the SOPs, there are a number of steps involved to process a permit. These steps take time to complete.

VFA remains committed to the milestone'Responded to applications for research permits within 20 working days'.

Information ownership

In general, data collected and information generated through research conducted for the management of fisheries is owned by the State and managed by the Department. This information should be publicly available at an appropriate scale where relating to stock assessment or monitoring.

In some circumstances there will be valid reasons to constrain the distribution and use of data collected and information generated; for example, where the dissemination of data or information would divulge commercial information for individuals or when privacy legislation provisions are relevant.

For VFA research services, in relation to cost recovered services, the data and analysis are owned and managed by the State.

Where research or information is used to inform fishery management decision making (e.g. stock assessment or setting of management controls) that information should be publicly available at an appropriate scale. This should apply irrespective of who paid. If industry commissions research to inform their own thinking, they own that data and analysis. If industry want that data to be used in statutory decision making, that data and analysis needs to be provided to government and made publicly available as appropriate.

Release of data collected through contracts commissioned by industry collection will require consultation with industry. Any release to parties outside of government will likely require agreements that ensure confidentiality, sensitivity, and confirmation of ownership.

Will an adjustment be made to cost recovery levies for industry if the Court awards 'costs' to the Government following a successful prosecution?

Court costs relate to costs associated with the conduct of court proceedings, such as briefing a barrister to attend hearings, service of summons etc. When Courts award 'costs' to the Government following a successful prosecution, they do not include the costs of investigation.

As the FCRSC has previously agreed that costs incurred by VFA in relation to prosecutions are 0% recovered, it would not be appropriate to adjust levies following recovery of these costs. If levies were to be adjusted downwards if VFA was granted costs, it would be appropriate that an adjustment be made upwards if the prosecution was unsuccessful and costs were awarded against the prosecution.

Court costs are at the discretion of the presiding magistrate (costs cannot be awarded for indictable matters heard by a judge and jury). Where costs are awarded against an accused, the accused can seek to pay by instalments. This means that in many cases costs are only received in small amounts over a number of years. VFA pays costs into a trust account which is used to pay for barristers in future cases, or to pay the defendant if costs are awarded against the prosecution.

VFA has to top up the trust annually from state recurrent funds as the costs incurred outweigh the costs actually received.

Fines, proceeds of the sale of seized goods and pecuniary penalty orders made under the Confiscation Act must be paid into the consolidated fund (Treasury). It is Government policy not to hypothecate these funds back to enforcement agencies because it creates perverse incentives that could undermine the justice system.

Recreational vs. Commercial take

Where services are provided to a fishery which both commercial and non-commercial fishers harvest, the recoverable services will be recovered based on the estimated proportion of take by commercial fishers. For example if the commercial take is 50%, the level of recovery would be 50% of the cost of the service.

The Committee acknowledges that the number one research priority for the VFA is accurately quantifying recreational take of the various species. Without this catch being correctly quantified there will be ongoing difficulty in properly apportioning costs.

The commercial versus recreational catch for bay and inlet fisheries was determined by the then Manager Bay & Inlets, Dr Murray McDonald, who provided his best estimate of the recreational vs commercial take (2012).

The FCRSC has previously agreed that the following five cost recoverable services would be attributed based on the commercial versus non-commercial catch, and that the best estimate will be used to determine that catch:

- Data collection, monitoring and analysis for stock assessment;
- Setting quota and harvest limits;
- Operational management of marine fisheries;
- Operational management of freshwater fisheries; and
- Fishery Management Plans.

For data collection and stock assessments that focus on individual species/stocks, the costs should be allocated according to VFA's best estimates of the proportion of the total catch taken by each sector, including the recreational sector and multiple commercial fisheries where applicable. Let us look at several examples:-

Snapper - if VFA were to conduct a stock assessment on snapper, then it is estimated that 75% of the attributable costs should be allocated to the recreational sector and 25% to the commercial sector. The majority of the commercial take of snapper would come from the Western Port/Port Phillip Bay (WP/PPB) fishery, with smaller amounts from the Victorian In-Shore Trawl (VIT) and Ocean fisheries. (Note that this estimation was conducted in July 2012).

Black Bream - there are effectively separate stocks of bream in each Victorian estuary. If VFA was to conduct a stock assessment on bream in any Victorian estuary other than the Gippsland Lakes then 100% of the cost of such a project would be allocated to the recreational sector because there is no commercial fishing in these estuaries. However, a stock assessment of bream in the Gippsland Lakes should be allocated 50% to the recreational sector and 50% to the Gippsland Lakes commercial sector (based on our best guestimate of the proportion of the catch taken by each sector).

Sand flathead - if VFA was to conduct a stock assessment on sand flathead then 95% of the attributable cost should be allocated to the recreational sector and 5% to the commercial sector (WP/PPB fishery, the VIT fishery and the Ocean fisheries).

Rock flathead - if we were to conduct a stock assessment on rock flathead then VFA would estimate 95% of the attributable costs to be allocated to the commercial sector (WP/PPB & Corner Inlet) and 5% to the recreational sector.

Where VFA are conducting fishery assessments, that is, assessments of multi-species, multi-method, multi-sector fisheries in a particular location (eg. Western Port/Port Phillip Bay, Corner Inlet, the Gippsland Lakes), the attributable costs of such projects should be allocated according to our best guestimates of the extent to which such assessments focus on commercial versus recreational data (for example about 85% commercial for Corner Inlet).

In view of all the above, VFA estimated the commercial catch for the following sectors:

- Bait fisheries - 100% commercial take
- Corner Inlet Fishery - 85% commercial take
- Ocean Fishery - 70% commercial take
- Purse Seine (Ocean) - 70% commercial take
- Ocean Wrasse Fishery - 95% commercial take
- Gippsland Lakes - 50% commercial take

- Purse Seine (Port Phillip Bay) - 100% commercial take
- Victorian In-Shore Trawl - 80% commercial take
- Western Port/Port Phillip Bay - 80% commercial take

A concession tabled at FCRSC #29 of 14 December 2012 was that VFA would adjust the recreational vs. commercial take for all finfish fisheries to be 50/50 until better estimates of recreational catch are available.

The Manager Marine Fisheries, in consultation with the Abalone Fishery Manager, provided their best estimate of the rec vs commercial take as follows:

- Eastern Zone - 95% commercial take;
- Central Zone - 90% commercial take; and
- Western Zone - 90% commercial take.

Due to the higher population density surrounding Port Phillip Bay, and easier access to the abalone resource in the Central and Western Zones, it is estimated that there is more recreational take than the Eastern Zone.

The Manager Marine Fisheries, in consultation with the relevant Fishery Managers, provided their best estimate of the recreational vs commercial take as follows:

- Eel – 100% commercial take;
- Scallop (Ocean fishery) – 100% commercial take;
- Rock Lobster Eastern Zone – 90% commercial take;
- Rock Lobster Western Zone – 95% commercial take; and
- Giant Crab – 100% commercial take.

It is important to note the following points:

- VFA has indicated from the start of this process that we currently have poor information on rec vs commercial take, and that the above %'s are VFA's best estimates; and
- The prospective cost recovery system will be phased in over a period of time from 1 April 2014 with two trial years. Accordingly, the FCRSC would be able to consider the outcomes of any research conducted on species/fisheries within that timeframe, and if required, recommend adjustments to the % of recoverability against those cost recoverable services where the attribution of costs is based on recreational vs commercial take.

At meeting #34, FCRSC agreed to reduce the apportionment of pre and post inspection activity to 5% for the commercial sector. This was followed up at meeting #36 where advice from the Minister was provided that pre, post and travel time for inspections would be included in cost recovery.

The schedules do not address resource sharing arrangements in fisheries. They set out the best estimate of recreational versus commercial catch for use when attributing costs on the basis of take for some management and science services.

Recreational licence fees

The recreational sector contributes a significant amount through recreational licence fees. These fees go into a revenue pool that is used to improve recreational fishing in Victoria. Funded activities include the Recreational Fishing Grants program, thirteen Fisheries Officers, VR Fish and the Victorian Fishcare Program.

3. OPERATIONAL PROCEDURE

Methodology to Determine Costs

Recoverable cost estimates are based on estimated FTEs and operating expenses incurred for the provision of services.

VFA directors were asked to estimate the average annual amount of time spent and operating cost against each cost recoverable service provided to industry within each fishery over a four year period, recognising that some costs may only actually be incurred in one or two particular years in the cycle. This approach enables industry to have more certainty over the cost of their annual levies, and avoids the high transaction cost of annual adjustments and smooths the likely variation in services in specific cases.

VFA Directors used information from the Fisheries Activity Costing System, Fisheries Officer output reports, officer timesheets, 13FISH calls, resulting actions from call-outs, historical knowledge of each fishery, annual programs and enforcement operations/investigations to formulate estimates.

Costs have been separated between recreational, illegal and commercial. As such, it is only the commercial costs that are intended to be cost recovered in line with cost recovery principle number 1 b) equity, 'those that benefit from a government service, or contribute to the need for a service, should pay for the associated costs. Where a number of groups benefit from a service, costs should be apportioned.

Remaining actions

The proposed operation of this system will need to be confirmed by decision within government, including specifically with DTF prior to final decisions on the construct of the system. Regulatory amendment may be necessary to support operation of the system as envisaged.

VFA will need to ensure that the current Act provisions and new regulations can support this proposed system.

Consultation

Section 3A of the Act states:

To the extent that it is practicable, the following consultation principles apply to decisions made by the Minister or Secretary under this Act, which affect the use and conservation of Victoria's fisheries resources -

- the purpose of consultation and any consultation process should be clear, open and transparent;
- the level of consultation should reflect the likely impact of decisions on persons and fisheries resources;
- the consultation process should be adequately resourced;
- the consultation process should be flexible and designed to take into account the number and type of persons to be consulted and their ability to contribute to the process;
- the consultation process should involve consideration of representative advice which represents the views and values of the persons represented;
- representative advice in relation to the following persons or groups should be considered during any consultation process - recreational fishers, commercial fishers, aquaculture operators, conservation groups and indigenous groups;
- the consultation process should consider expert advice, which should be obtained from the most appropriate provider; and
- any expert advice obtained should be made available to persons participating in the consultation process. Section 3A(2) of the Act continues...Without limiting the generality of subsection (1), for the purposes of that subsection, the following decisions (amongst others) are taken to affect the use and conservation of Victoria's fisheries resources:

(i) decisions relating to the making and content of regulations in respect of royalties and levies imposed in accordance with sections 150 and 151.

The Government is committed to a transparent cost recovery process. VFA will meet its responsibilities regarding consultation under the Act by working with the FCRSC in the development and implementation of the prospective cost recovery system.

Consultation on the nature and extent of services to be provided

Consultation regarding the level of services and schedules should be considered by persons fully representative of those paying levies at a fishery level.

As agreed by the FCRSC, there will be an annual fishery-specific consultation process to allow discussion with industry on the key activities and deliverables/milestones listed in the schedules. Matters discussed will include:

- what has been achieved/done in relation to services delivered
- what necessary adjustments were made by the VFA in the provision of services
- problems or concerns identified by the VFA or the industry.

This process ensures all entitlement holders have an opportunity for direct input into the nature and extent of services to be provided to their fishery.

Where the forum is direct consultation with a fishery association, it is proposed that this would be a half-day workshop at a regionally appropriate location.

Where the proposed forum is through SIV, SIV would facilitate discussion with relevant entitlement holders and the VFA using existing or new processes.

Across each forum, VFA staff members from the Management, Science and Enforcement & Education branches are present for effective discussion on the nature and extent of cost recoverable services to be provided to each fishery.

Prior to the end of the four year period, there will be a substantive review of the schedules and services so that adjustments can be made to reflect changes in the nature and extent of services / VFA's staff complement, etc. needed

over the next four year period. This would incorporate matters including the outcome of risks assessments considering fisheries services, revisions to management plans, and the cumulative outcome of consultation with industry.

Over time, it is expected that the operation of the cost recovery will be increasingly aligned with the development and improvement of management plans. Those plans will identify the objectives, harvest strategy and decision rules for fisheries and therefore a strong link to the services required.

VFA Cost Recovery Stakeholder Engagement Principles:

- Stakeholder engagement is integral to good fisheries management outcomes;
- Stakeholder relationships are a long term investment;
- Communication will be open and transparent;
- Industry and Government leadership is critical to effective stakeholder engagement;
- Participation in decision-making that directly affects stakeholders will occur where possible and decisions will be communicated to those affected;
- Engagement will be fit for purpose and reflect the capacity and willingness of stakeholders to engage; and
- Engagement is informed by a clear understanding of the respective roles and responsibilities of government and stakeholders in fisheries management, and mechanisms to effect these.

The reporting to the FCRSC on the delivery of services will be based on the deliverables and milestones set out in the schedules, on a twice yearly basis. FCRSC agreed a broad approach to cost recovery reporting through the application of key performance indicators and project 'traffic lights' for 2015/16. The mechanisms for measuring and assessing performance will be further refined from 2016 onwards.

The FCRSC has agreed that the fishery-specific forums are a vital part of the cost recovery process to enable consultation with affected entitlement holders.

SIV has agreed to assist in the education of industry members, and VFA has started briefing its staff, including Fisheries Officers, on cost recovery, with a view to increased communication with industry and adjusting the operation of VFA for a cost recovery environment, with its focus on accountability and efficient service provision.

The FCRSC agreed that consultation is a 'two-way street' and that both industry and VFA should be as transparent as possible.

Consistent with principle 1 of the cost recovery system, consultation will be targeted in the most effective and efficient manner. Initial consultation rounds showed that fishery specific meetings are not equally effective in all fisheries and a mix of consultation methods is required. FCRSC agreed that consultation for cost recovery should be achieved through existing meetings where possible. Other mechanisms, such as letters, surveys and phone calls could be used to include those licence holders where face to face meetings are not justified by demand and cost involved. At FCRSC #40 it was agreed that a consultation process would take place annually and that each fishery would be consulted at least once within a four year period.

Update on VFA's Compliance Program

In regards to reporting on compliance activities/services, there is the need for a careful balance between the degree of accountability and not compromising the integrity of compliance and potentially damaging any investigation/operation.

VFA will report to the FCRSC on a twice yearly basis regarding the overall compliance program (including information on the number of prosecutions, infringements, etc.) which would cover all 44 licence classes as part of the milestone reporting under the prospective cost recovery system. Inspection data for each fishery will be reported at the year's end.

This information, along with the results of the 13FISH hotline will also be made publicly available via the VFA website.

The FCRSC agreed that compliance rates are not a good indicator of success, or otherwise, of the VFA compliance program, because it is an intelligence driven program that targets specific risks.

On-line reporting of Catch & Effort data

On-line reporting is available to aquaculture licence holders to submit their six-monthly aquaculture production returns. The option to submit the returns on-line was provided to aquaculture licence holders in 2012. As of March 2013, 40 of the 140 licences are submitting their returns on-line.

VFA now have the capability for wild-catch licence holders to enter their monthly Catch & Effort returns on-line, including the templates for reporting details. Work is currently being undertaken to resolve issues with the reporting functions in the revised Catch and Effort System (ICE).

In order to provide for use of the on-line reporting functionality - training material would need to be developed to assist wild catch fishers use the on-line system. It is probably more practical to consider this at the level of a pilot fishery. Gary Leonard suggested the Gippsland Lakes fishery may be a prospect for that trial.

How can industry reduce the cost recovery levies?

Whilst the proposed new cost recovery system will mean an increase in cost recovery levies for most fisheries entitlement holders, a forward budgeting approach with increased accountability encourages both industry and VFA to focus on improving the effectiveness and efficiency of services provided.

VFA and industry are expected to find smarter ways of providing the cost recoverable services that are needed. The challenge is to find ways of doing things better (more cost effectively) and considering ways to better involve industry in directly delivering services with the right checks and balances.

The 2012/13 Sustainable Government Initiative was an example of how the Victorian Government was looking to improve the efficiency of the Victorian Public Service. The Victorian Auditor General's Office recent audit report Effectiveness of Compliance Activities: Departments of Primary Industries and Sustainability and Environment (October 2012) which assessed whether DPI and DSE are effectively providing compliance services is also an example of the Victorian Government seeking to become more efficient. The audit found that the VFA has a robust and transparent process for identifying its high compliance risks, has effective oversight across all of its regulatory activities, has suitable and appropriate staff and staff functions, and has improved its performance management framework to better reflect its effectiveness.

On-going consultation needs to occur to determine the nature and extent of cost recoverable services that are required to enable VFA to meet its regulatory requirements and manage each fishery sustainably. For example, good compliance behaviour is strongly supported by VFA and FCRSC, Differentiating levies based on compliance history was considered by FCRSC in 2015 at meeting #37. The committee determined the cost of administering licence classes under two tiers of compliance behaviour would not be cost effective and presented concerns for the privacy of individuals. However, FCRSC will consider an incentive based approach to reducing compliance costs eg through adoption of measures that have potential to reduce the operational cost of inspections.

An additional method to determine efficiency is benchmarking. Whilst most States and the Northern Territory recover some costs of managing fisheries, South Australia is the only other state with full cost recovery. For 2010/11, South Australia's regulatory costs amounted to 6.6% of that State's fisheries GVP. In contrast, the proposed amendments to Victoria's proposed levies in the draft RIS are based on a total cost that is around 5.1% of GVP. This suggests Victoria's proposed levies are not unreasonably high, especially given that South Australian fisheries tend to be larger and of higher value than those in Victoria. This suggests that the costs and services relative to GVP in South Australia should be lower than in Victoria.

Aligning the Licensing year and Financial year

The FCRSC asked VFA to assess whether the licensing year can be moved to be in line with the financial year and provide an answer to the question 'could levies be paid by industry on 1 July with the licensing year continuing to commence at 1 April?'

The lack of alignment between the fishing year and the financial year causes difficulties in budgeting for fisheries services. The government budget process is aligned with the financial year and cannot be moved.

The licence renewal and quota authorisation can be brought in line with the financial year by the the Chief Executive Officer, VFA. This would not require any amendments to the regulations, however a transitional licensing period adjustment would be required (for example, in the first year, the length of the licence period could be extended to 15 months or reduced to 3 months).

Industry members of the FCRSC did not support changing the current licensing year to align with the financial year at this stage.

The FCRSC discussed the possibility of introducing quarterly payments, noting the pros (cash flow) and cons (increased licence administration and debt recovery costs, which would be 100% recovered from industry under the new prospective system and the need to negotiate such an arrangement with Treasury). The FCRSC agreed that the cons outweighed the pros.

Alternative service providers

What would happen if an alternative service provider could be proven to deliver a particular service at 50% of the cost that VFA could deliver the service?

If, following consideration by FCRSC, it is considered that an alternative service provider might be able to deliver a particular service at less than the cost that VFA could deliver that service, and it was deemed appropriate for that service to be potentially delivered externally, a process would be initiated to assess the provision of that service by a provider external to VFA.

Standards and specifications would be developed; and where necessary and practical, monitoring could be designed to ensure integrity of provision, continuity and preservation of long term databases. The costs of some of these processes (development of standards and specifications, procurement process, monitoring, contract management) would themselves be recoverable.

One of the terms of reference of the FCRSC is to advise on issues that may or will affect the amount of costs to be recovered from industry, including competitive tendering.

VFA reiterated with the FCRSC that it is supportive, in principle, of alternative service providers delivering cost recoverable services to industry at a lower cost than VFA, noting that some types of services could not be delivered outside of Government. VFA advised the FCRSC that it has created the schedules, in consultation with the FCRSC, to specify the cost recoverable service to be delivered, including a definition of the service, the milestones against which performance can be measured, and the time and cost incurred by VFA to deliver that service on behalf of industry. Such information could provide a basis for the consideration of outsourcing options where appropriate.

VFA agreed that more detailed standards and specifications would need to be developed to support consideration of contestability. Contracting arrangements, and monitoring and auditing may also be needed. It would simply be too time consuming to create a service specification for every cost recoverable service within each of the 42 fisheries.

VFA advised the FCRSC that there are approximately 250 services provided to industry by VFA in the schedules, noting that some services are grouped such as cost recovery administration.

At FCRSC #34 it was agreed that rock lobster and abalone research services would be reviewed in the first instance to identify further opportunity for services to be better delivered through a third party provider..

At FCRSC it was agreed that the outline provided at Appendix A would inform consideration of tendering of contracts for third party service providers.

Payment of cost recovery levies through instalments

FCRSC considered monthly or quarterly payment of levies to spread payments over a longer period thereby spreading demands on commercial fishing businesses. The committee determined that cost to implement such a system would exceed the savings and may result in subsidisation across fisheries and not warranted at this point.

Tendering of contracts for provision of services by a third party under the proposective cost recovery system

Industry has shown interest in being involved in the contracting of cost recoverable services. Of some 250 services provided by VFA under the new cost recovery system, the most likely services to be eligible for provision through a third party will be research services. There is value for both industry and government in having access to, and input into the development of, information obtained through research services. While government has specific information and data management requirements, industry may also identify information requirements that can enhance the management of their fishery and be met through these services. Industry involvement in contracting of services may lead to greater acceptance of data and research findings.

Under the new cost recovery system, potential contestability of service provision is an important mechanism to achieve cost efficiency. However, the service provider would need to be able to deliver the services in an appropriate manner, and at an appropriate quality, in accordance with government procurement procedures.

At meeting #34, FCRSC agreed to look further into the principles and processes that would be required to consider contestability of services. Four key questions to be answered when considering this contestability of service provision are:

1. Why would government contract for services?
2. How does government contract services?
3. How could sector representatives be involved?
4. What criteria would be used to guide the appropriate industry involvement?

Why would government contract for services?

Government primarily contracts for services that it cannot deliver itself in an efficient and cost effective manner. The government procures services under a “value for money” protocol, which means that quality of services, as well as cost, are important in the selection of service providers.

The contracting of cost recoverable services will be:

- Transparent
- Accountable
- Legally sound
- In accordance with government procurement guidelines

Principle questions for government when seeking the provision of services

1. Can the public sector procure the service effectively so that it gets the service needed?
2. Will shifting away from the public sector delivering the service provide for equivalent or better value for money ie the same or better quality, quantity and accessibility at the same or lower cost to taxpayers?
3. Will a different provider bring expertise or specialisation that is hard to find in the public sector?
4. Will accountability be clear for users of the service? Is it practical to effect independent oversight with sufficient power to ensure quality?
5. Will continuity of service be secure if the supplier fails?
6. Do costs outweigh benefits taking into account service specification, oversight, monitoring and contracting costs?

While market methods may help achieve cost efficiencies, quality gains may be more elusive. Quality may need to be underpinned through service and quality standards backed by regulation. Impacts on an organisation's skills and capacity to oversight outsourced services also need to be considered, for example to ensure that a critical mass of necessary expertise is not lost.

How does government contract?

Contracts between VFA and a third party service provider are usually commercial-in-confidence.

Where a tender process is to be run that will result in a contract between VFA (State) and a third party (Vendor), then VFA procurement processes must apply. In this circumstance it is appropriate that VFA controls the action/selection process: the final decision as to the preferred supplier must be made by the panel. The VFA delegated decision maker will make the final decision.

Deeds of confidentiality must be completed at the commencement of the procurement process and conflict of interest declarations must be made as soon as tenderers are known.

VFA procurement process (aligned with Victorian Government Purchasing Board policies)

Generally procurement processes are competitive to maximise value-for-money opportunities through using competitive tension. Procurement processes are tailored to reflect the complexities and risks of engagement associated with each procurement.

The following is a general outline of the process:

1. Design procurement process
 - Confirm the nature of the goods or services required.
 - Identify and establish a process to manage any potential conflicts of interest (ongoing throughout the process).
 - Market analysis: identify potential bidders to issue a Request for Quotation (RFQ) or Request for Tender (RFT).
 - Confirm evaluation criteria (a weighted matrix is used) and panel (minimum of three persons including at least one VFA employee who is the chair for purchases greater than \$150,000).
 - Consider the need for a probity advisor.
2. Draft Request for Quotation (RFQ) including following aspects:

Context: Background and factors that impact on the requirement including government policy, department priorities, risks, current supply arrangement gaps, potential users of the requirement, expertise of the users who may interface with the requirement, existing settings into which the requirement will be sited, etc.

Purpose: The key objectives of the project/requirement that the procurement is to satisfy including the benefits intended to be achieved.

Output: A description of the project deliverables required of the business including factors that may impact on the deliverables. Consideration should be given to clearly defining what is in and out of scope when defining project deliverables.

Submission: A schedule of what to submit, the scope of material required, selection criteria, resources of the business to undertake the project, specialist staff to be allocated to the project, warranties, guarantees, costs structure, indemnity

coverage, payment details, suggested milestones and performance measures, bid delivery instructions and submission date.

Other: Project contact officer, specific technical information, material available from the Victorian Government Procurement Board website, etc

3. Issue Request for Quotation.

The minimum number of quotes sought depending on the value of the purchase:

- less than \$25,000 – a minimum of one written quote
 - between \$25,000 and \$150,000 – a minimum of three written quotes
 - in excess of \$150,000 – by tender to open market (either by a one stage process involving the release of a request for tender /quotation to the open market or a two stage selective tendering process where an expression of interest or request for information is first issued to an open market followed by a request for tender to a selected number of suppliers who have satisfied an assessment of their capability and capacity)
4. Receive bids and store securely
 5. Collate submissions
 6. Prepare shortlist (conduct any necessary reference checks / due diligence)
 7. Evaluation of bids based on the publicised criteria
 8. Confirm nature of engagement, draft and sign contract
 9. Notify successful and unsuccessful submitters once successful bidder has signed contract.

How could sectors be involved?

Sector representatives may be able to add value to research services provided under contract, particularly through the development of specifications for contract services provided and identifying ways that information may be utilised.

Sector representatives **can** be involved in development of project specifications, the exact nature of this involvement will vary and is to be determined by VFA following consideration of confidentiality and potential conflicts of interest. Appropriate steps must be taken to ensure confidentiality and management of potential conflicts of interests in the evaluation and selection panel.

It would be a breach of consumer/supplier confidence to have a commercial stakeholder on the evaluation panel. Industry could be given opportunity to provide input into the selection criteria and requirements. This would ensure commercial interests in the outcome.

It would be a conflict of interest for a seafood industry body or members of the seafood industry to be included because they have a commercial interest in the outcome of the RFT and it would therefore be highly inappropriate for them to participate in the tender evaluation.

It is recommended that VFA Procurement Branch is involved from the outset to ensure appropriate processes are followed.

In conjunction with the above points:

- VFA could provide to industry all information that it is legally permitted to ie that information which is publicly available or will be made publicly available during the procurement process. Publicly available material includes the RFT, including selection criteria and scoring methodology, however it does not include weightings or evaluation matrices.
- VFA and sector representatives could consider the costs of, for example, each research element through a collaborative approach.
- Within the development of contracts for research services, and implementation of research findings into the management of fisheries, there should be recognised roles for sector representatives and fishery managers.
- The role of non-government representatives in evaluation of contract services would be for the specific purpose of expertise, and exclude those with a conflict of interest.

Victorian Government Departments treat all funds exactly the same way, regardless of the funding source. All monies collected by Government is considered public monies and is managed in accordance with the Financial Management Act (<http://www.dtf.vic.gov.au/Government-Financial-Management>)

What criteria could be used in selecting the appropriate industry representative?

- i. The value that they will add
- ii. That they can meet all government requirements to legally allow involvement eg probity
- iii. They adequately represent a sector/fishery and are viewed favourably by the sector generally
- iv. That their inclusion will not create bias or distort outcomes, recognising that sector aspirations and objectives for research will not always be consistent with departmental objectives for statutory decisions. For example,
 - Not likely to provide (or be perceived to provide) non-meritorious preference to any bidder
 - Where a party had direct financial interest in decisions that might be based on contracted services

- v. That their inclusion will be cost effective
- vi. That their inclusion will enable the panel to consider legitimate stakeholder viewpoints, concerning the provision of quality, cost effective services.

Release of information from contracts between government and third parties

VFA is not permitted to release information from contracts that would be considered commercial-in-confidence.

This does not preclude the release of specifications provided by the department that define the range of services to be provided under the contract and/or used in the tender process for establishing a contract for services, providing there is no infringement on commercial-in-confidence.

Once the tender process is complete and a contract is signed by all parties, the full amount for the services may be disclosed. Details of the contract following successful bid will be published at tenders.vic.gov.au

The names of those serving on an evaluation panel would not be released to avoid a breach of probity. The risk to confidentiality and of evaluation panel members being approached by external parties.

Industry is permitted to make a formal complaint on and RFQ/RFT process where evidence of a wrong doing, or evidence that important information was not available to the evaluation panel. A formal complaint, including the supporting evidence, can be made at <http://www.economicdevelopment.vic.gov.au/corporate-governance>

Assessment of services for establishing under-delivery and waivers

The Fisheries (Fees, Royalties and Levies) Regulations stipulate that non-delivery of a Fishery Service may result in a waiver in the following year for that service. In 2015, FCRSC agreed that the description should be re-defined from 'not less than 25% of services not delivered' to materially under-delivered. This change was supported by the Minister and took effect from 1 April 2016 in the Fisheries (Fees, Royalties and Levies) Amendment Regulations 2016.

Criteria for assessing services

At meeting #39, FCRSC agreed to the following principles being used to assess the delivery of services as being materially delivered or under-delivered:

1. Fit for purpose
2. Timing of delivery
3. Impact on fisheries management outcomes
4. Level of service to fishery

Further consideration of the criteria led to a weighting of criteria, whereby criteria 1, 2 and/or 4 would be considered cumulatively to assess if there was an impact on criteria 3. If so, a determination of material under-delivery would result.

Conversely, where criteria 1,2 and/or 4 did not lead to an impact as per criteria 3, material under-delivery would not have resulted.

Where material under-delivery resulted, an offset equivalent to a proportionate amount of the original levy for the Fishery Service in the given year would be offset against the levy for that service in the subsequent year. Note that as service assessment does not occur until part way through the year after delivery, the offset will not be provided until the year following ie up to two years after the scheduled delivery for a non-delivered service.

Quantifying the level of non-delivery

At meeting #40, FCRSC considered two types of services that had been proposed by VFA as under-delivered. These were Research Services and Compliance Services.

The offset for Compliance Services was calculated as a direct percentage of the target inspections that were not delivered when three quarters or more of the service was deemed not to have been delivered.

For example, if 8 out of 10 inspections were delivered for a fishery no under-delivery was considered to have occurred in that fishery. When 7 out of 10 inspections were not delivered, under-delivery was considered to have occurred and this would be calculated as 3 out of 10 multiplied by the cost of the Compliance Services levy for the fishery relevant to the period that the under-delivery occurred.

The calculation of offsets for Research Services proved more difficult due to the subjective nature of quantity and standard of the service delivered.

The decision-making process and sign-off

The decision process proposed by FCRSC at #41 was approved by the Minister for Agriculture on 14 December 2015. The decision process is set out as:

- i. The Department is to advise the FCRSC of the proposed off-sets for each service within each fishery,
- ii. FCRSC considers the Department's advice, either endorsing or advising of an alternative level of off-set for each fishery, and
- iii. The Department makes the decision on the actual off-sets to be provided.

The Minister has delegated the approval of offsets to the Chief Executive Officer, VFA.

FCRSC agreed that from time to time, the Department would necessarily perform functions required to meet legislative requirements, without discussion with FCRSC. For example, the emergence of compliance risks may require action in a particular fishery that is separate to that outlined in cost recovery schedules. The change in activity for that year would not be cost recovered.

Review of operational guidelines of the prospective cost recovery system:

The guidelines will be subject to refinement as the implementation and operation of the prospective cost recovery system proceeds. Future changes will be made by way of Appendices. At a future date a new set of guidelines will be issued which will incorporate the appendices, as appropriate, into the main document. In many instances changes will be implemented prior to the review as appropriate. For all data contained within these guidelines, figures will be correct at the time of writing. Where information is updated, this will be reflected in revised versions of the guidelines and published on the Fisheries website at <http://agriculture.vic.gov.au/fisheries/commercial-fishing/fisheries-cost-recovery/fisheries-cost-recovery-standing-committee>

Cost recovery for services during Seismic testing projects in Victorian waters

The Victorian Fisheries Authority has produced “Undertaking seismic surveys in Victorian managed waters” which provides guidance on the role of the VFA in seismic survey proposals and the provision of data and other assistance on such matters.

Appendix A: The annual cost recovery cycle at full implementation

Calendar for cost recovery year @ full implementation												
Year 1	Renewal notices issued (Year 1)											
	April		Final Report Year 0									
	FCRSC meeting 1 (Year 1)											
	May											
	June											
	July		Industry consultation (Year 1)									
	August											
	September											
	October		Half yearly report (Year 1)									
	FCRSC Meeting 2 (Year 1)		Final adjustments for Year 2									
			Under delivery assessment for Year 0									
	November		Regulatory change process for Year 2									
	December											
	January		Offsets from Year 0 & 1 confirmed									
	FCRSC meeting if necessary (Year 1)											
	February											
	Schedules for Year 2 finalised											
	March											
	Renewal notices issued (Year 2)											
	Year 2	April		Final Report Year 1								
		FCRSC meeting 1 (Year 2)										
		May										
		June										
July		Industry consultation (Year 2)										
August												
September												
October		Half yearly report (Year 2)										
FCRSC Meeting 2 (Year 2)		Final adjustments for Year 3										
		Under delivery assessment for Year 1										
November		Regulatory change process for Year 3										
December												
January		Offsets from Year 1 & 2 confirmed										
FCRSC meeting if necessary (Year 2)												
February												
Schedules for Year 3 finalised												
March												
Renewal notices issued (Year 3)												
Year 3		April		Final Report (Year 2)								
		FCRSC meeting 1 (Year 3)										
		May										
		June										
		July		Industry consultation (Year 3)								
	August											
	September											
	October		Half yearly report (Year 3)									
	FCRSC Meeting 2 (Year 3)		Final adjustments for Year 4									
			Underdelivery assessed for Year 2									
	November		Regulatory change process for Year 4									
	December											
	January		Offsets from Year 2 & 3 confirmed									
	FCRSC meeting if necessary (Year 3)											
	February											
	Schedules for Year 4 finalised											
	March											
	Renewal notices issued for Year 4											
	Year 4			Final Report (Year 3)								