**DEPARMENT OF PRIMARY INDUSTRIES**

# FISHERIES COST RECOVERY STANDING COMMITTEE

Meeting #33 – Draft Minutes

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| Meeting details: | | | Date: Tuesday 29 April 2014  From: 09:00am to 3:30pm  **Location: Department of Primary Industries, Room 16.4, 1 Spring Street, Melbourne, VIC.** | | | | | |
| Members attending: | | | Ian Cartwright (Ind. Chair) | Geoff Ellis (Industry) | | | Edward Meggitt (Industry) | |
|  | | | Mark Edwards (DEPI) | Markus Nolle (Industry) | | | Anthony Ciconte (Industry) | |
|  | | | Johnathon Davey (SIV, Permanent Observer) |  | | |  | |
|  | | |  |  | | |  | |
| Executive Support: | | | Chris Padovani  Ph: 03 9658 4779 (BH)  Mob: 0427 353 233 |  | | |  | |
|  | | |  |  | | |  | |
| Advisors/Presenters: | | | Ross McGowan, Executive Director Fisheries Victoria | Ian Parks, A/Director Education & Enforcement, Fisheries Victoria | | |  | |
| **◆ Paper provided 🞎 Paper to be Tabled at Meeting ▲Verbal Report** | | | | | | | | |
|  |  |  | | | TIME | WHO | | ACTION |
|  |  | **FCRSC** | | |  |  | |  |
| 1 | ▲ | Welcome & items for discussion | | | 09:00am | Ian Cartwright | | Noting |
| 2 | ▲ | Apologies & guests | | | 09:10am | Ian Cartwright | | Noting |
| 3 | ◆ | Previous Minutes & correspondence | | | 09:20am | Ian Cartwright | | Noting |
| 4 | ▲ | Progress on Action Items from previous meeting/s | | | 09:30am | Chris Padovani | | Noting |
|  |  | **ITEMS FOR DISCUSSION/NOTING** | | | Indicative |  | |  |
| 5 | ◆  ◆  ▲  ▲ | 1. FCRSC Terms of Reference 2. Operational Guidelines of the prospective cost recovery system   *[break / lunch]*   1. Update on fishery-specific consultation regarding the level of services 2. Pilot candidates for contestability | | | 10:00am  10:45am  *12:00pm*  12:30pm  2:00pm | Chris Padovani  Chris Padovani  Mark Edwards  Mark Edwards | | Decision  Noting  Noting  Decision |
| 6 |  | Other Business | | | 3:00pm | All | |  |
| 7 | ▲ | Next Meeting – TBC | | | 3:50pm | Ian Cartwright | | Decision |
| 8 | ▲ | Wrap Up & Close | | | 3:55pm | Ian Cartwright | |  |

FISHERIES COST RECOVERY STANDING COMMITTEE

Draft Minutes

Meeting #33 – 29 April 2014

**1) Welcome and Introductions**

Johnathon Davey, recently appointed Executive Director SIV, and permanent observer at FCRSC meetings.

Opening Statement – Ian Cartwright, Independent Chair, Fisheries Cost Recovery Standing Committee

The Chair advised the FCRSC that, in his opinion, the framework for the prospective cost recovery system for the Victorian commercial fishing industry, developed by the FCRSC, is a very good system, compared with other jurisdictions in Australia. The Victorian Government provides regulatory services to the commercial wild-catch and aquaculture sectors in order to meet its obligations under the *Fisheries Act 1995* and a proportion of some of those costs incurred to deliver those services is then recovered from industry (the beneficiary of those services) in line with Government policy on cost recovery. Industry is now getting a better understanding of the basis of costs to be recovered and is able to propose ways of reducing costs through discussions and negotiations at the fishery level. Accountability for the delivery of services should also be improved..

The Chair noted that the prospective cost recovery system is based on 11 cost recovery principles, which have been agreed by the FCRSC. It is based on an understanding of what services are to be provided, and the level of recovery for those services, which has been agreed by the FCRSC. The system has transparency built into it via the cost recovery schedules setting out service descriptions, milestones and resources, quarterly reporting on the delivery of cost recoverable services and the oversight of the FCRSC.

The prospective cost recovery system involves fishery-specific consultation between DEPI and industry on the nature and extent of cost recoverable services. As the new system has been confirmed by the Government, with regulations created, the focus for both DEPI and industry should now be on the nature and extent of services to be provided. Fishery-specific consultation has commenced, and it was only natural that industry and DEPI is likely to require further consultation on the nature and extent of cost recoverable services (costs) to be provided and levied. This will be a particular need as the system is new to both industry and the Department and represents a significant shift in thinking, which will take some time to bed down. The current prospective consultation did not occur under the previous retrospective cost recovery system, and that this was a very important aspect of the new system. Previously, invoices were issued to industry after the service had taken place. There was no opportunity for DEPI and industry to review the costs, to work together to reduce the costs incurred to provide cost recoverable services.

The recent example of consultation between DEPI and Gippsland Lakes entitlement holders that has resulted in a 50% reduction in the cost of science services for that fishery under the prospective system was cited. It is to be hoped that there will be more examples where industry and DEPI work together to identify efficiency savings over the two trial years, and during the three year phase-in of the prospective cost recovery system. In some cases, reductions may be negotiated such that the final increase in costs will be substantially reduced.

The Chair advised the FCRSC of his intention to write to the Minister following each meeting to provide an update on the work that the FCRSC is completing.

In closing, Mr Cartwright urged industry to have realistic expectations of the time it will take DEPI to introduce appropriate systems to support the implementation of the cost recovery system. Mr Cartwright also urged DEPI to provide industry with realistic timeframes for Actions, and to then meet them to avoid raising and then not meeting expectations, as had occurred in the past.

**2) Apologies:**

Terry Truscott (DEPI), Gary Leonard (Industry)

**3) Confirmation of previous Minutes**

**BACKGROUND**: Draft Minutes of FCRSC meeting #32 of 18 October 2013 were circulated to members on 7 November 2013 for comment by 15 November 2013. DEPI published the Draft Minutes on the DEPI website on 15 November 2013.

No comments were made by FCRSC members or advisors. Consequently, the Chair authorised DEPI to publish the Draft Minutes of FCRSC meeting #32 of 18 October 2013 on the DEPI website to ensure that FCRSC deliberations were transparent to all of industry.

**OUTCOME**: 1. The Committee confirmed the Minutes of FCRSC meeting #32.

**4) Progress on Action Items from meeting #32**

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| **ITEM** | **ACTION** | **RESPONSIBILITY** | **STATUS** |
| **1** | 1. DEPI to review the legality of the RIS in consideration of the public submissions received. | DEPI | Completed. Refer Agenda item 6(a) |
| **5(b)** | 1. Industry and DEPI to work together to address as many as possible fishery-specific queries for the 2014/15 licensing year prior to 8 November 2013. | DEPI/Industry | Completed. A number of amendments were made to the cost recovery schedules for various fisheries prior to regulation. |
| **5(c)** | 1. VADA industry advisor to provide DEPI with its legal register of members. 2. The abalone industry members/advisors that attended FCRSC meeting #32 support the adoption of compliance concessions in the three wild-catch abalone zones. DEPI will further consider its advice on this matter. 3. Industry to identify particular priority services that should be considered as pilots to be delivered by alternative service providers. 4. DEPI to clarify the total research costs for each wild-catch abalone zone. 5. DEPI to investigate what other primary producers pay cost recovery levies. 6. The Chair to advise the Minister that industry believe that the *Fisheries Act 1995* should be amended to include a provision for a waiver in certain circumstances of hardship. 7. The Chair to ask the Minister to consider industry’s amended phase-in proposal (i.e. 10%, 30%, 60%). | Industry  DEPI  Industry  DEPI  DEPI  Chair  Chair | Completed. VADA provided the register to DEPI.  Completed. Compliance concession applied to abalone wild-catch fisheries.  Agenda item 5(d)  Completed. DEPI explained that abalone science is managed across the three zones, with fixed and variable costs. Less quota units in the WZ means a higher cost per unit compared to EZ and CZ.  Agenda item 5(c)  Completed. The Minister did not support the introduction of a waiver in relation to hardship.  Completed. The Minister maintained that the 30/30/40 phase-in, along with the significant concessions afforded to industry, will ensure that the prospective cost recovery system is phased-in in such a way as to not overburden industry, whilst moving to address the current under-recovery of costs. |
| **5(d)** | 1. DEPI to develop a discussion paper which outlines the process, timetable, etc. to implement the Fishery specific forums. | DEPI | Agenda item 5(c) |

***Progress on Action Items from meeting #31***

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| **ITEM** | **ACTION** | **RESPONSIBILITY** | **STATUS** |
| **4(e)** | 1. DEPI to confirm how the currently available GVP was calculated for various fisheries. | DEPI | Agenda item 6(a) |
| **5(c)** | 1. DEPI to provide the FCRSC with the discussion paper on the relationship between cost recovery and emergency management for consideration. | DEPI | Completed. Paper tabled at FCRSC #31. Information to be included in the Guidelines for the operation of cost recovery. |

***Progress on Action Items from meeting #30***

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| **ITEM** | **ACTION** | **RESPONSIBILITY** | **STATUS** |
| **5(a)** | 1. DEPI to clarify how it will collect economic data on Victoria’s fisheries in the future and as the prospective cost recovery system is implemented. | DEPI | Agenda item 6(a) |

**5) Items for discussion/noting**

***5(a) FCRSC Terms of Reference***

**BACKGROUND:**  In 2004, the Victorian Government entered into a Memorandum of Understanding (MoU) with Seafood Industry Victoria for the provision of cost recovery for fisheries management services.

The MoU expired on 30 November 2006. At the time, the Fisheries Cost Recovery Standing Committee (FCRSC) Terms of Reference were amended, in consultation and with input from the FCRSC, to incorporate the principles contained in the MoU, thereby replacing the MoU.

The Minister for Agriculture agreed in early 2007 that the former FCRSC and Aquaculture Cost Recovery Standing Committee amalgamate their functions and establish the FCRSC in order to streamline the oversight and advisory role on the cost recovery process for the aquaculture and wild harvest fisheries.

The current Terms of Reference of the FCRSC were updated in September 2010. Following the introduction of the new prospective cost recovery system on 1 April 2014, there is a need to update the FCRSC’s Terms of Reference.

DEPI provided the FCRSC with a first draft of revised Terms of Reference (Attachment A) for discussion/referral to the Minister for endorsement. DEPI noted these had not been cleared internally prior to distribution to the FCRSC.

**RECOMMENDATION:** That the FCRSC review the draft ToRs in advance of FCRSC #34, with the aim of referral to the Minister for endorsement.

**OUTCOME:**

1. The FCRSC noted that DEPI had prepared a draft 2014 ToRs for the FCRSC to review.
2. FCRSC members provided a number of initial comments and suggested amendments to the draft 2014 Terms of Reference.
3. The FCRSC requested DEPI to develop a register of interest template for completion by FCRSC members.
4. The FCRSC agreed that DEPI would make the agreed amendments to the draft ToRs in track change mode and circulate to the FCRSC for further comment.
5. The FCRSC noted that the Confidentiality clause in the draft ToRs is inconsistent with the Committee’s understanding of how transparency is to be implemented ie; that unless otherwise stated, outcomes of the meeting are not confidential. Details of discussions and personal viewpoints will remain committee-in-confidence. This clause will be rewritten in the updated version to be circulated to the FCRSC for consideration.
6. The FCRSC further agreed that the process for appointment of Members to the FCRSC by the Minister would be altered to clarify that SIV and Fisheries Victoria can advise the Minister of changes to the nominations to the FCRSC of industry and departmental representatives, respectively..

**ACTION ITEM:**

1. DEPI to develop a register of interest template for use from FCRSC #34 onwards.
2. DEPI to amend the draft ToRs as instructed by the FCRSC and circulate to the FCRSC for further comment.
3. FCRSC members to review the amended draft ToRs and provide any additional comments/feedback to DEPI by 5pm Thursday 29 May 2014.

***5(b) Operational Guidelines of the prospective cost recovery system***

**BACKGROUND:**  Attachment B (Guidelines for the operation of the prospective cost recovery system) aims to provide a narrative of the basis on which the prospective cost recovery system will operate from 1 April 2014.

The draft Guidelines are a reflection of discussions and decisions of the FCRSC and the Minister in the development of the new system.

The Guidelines are anticipated to be a working document, and are subject to refinement as the development and implementation of the prospective cost recovery system proceeds.

**RECOMMENDATION:** For noting.

**OUTCOME:**

1. The FCRSC noted that the operating Guidelines are a working document, and some aspects of the document would continue to evolve over time.
2. The FCRSC noted that the operating Guidelines are based on decisions previously approved by the FCRSC and by the Minister.
3. The FCRSC provided DEPI with a number of amendments to the operating Guidelines for consideration such as inserting the fishery-specific consultation table (once finalised), a set of compliance principles, and removing the background section. DEPI agreed to make those amendments, and other suggested improvements so that the Guidelines may be tabled at the next FCRSC meeting as version 1, with the intention that the Guidelines are then published on the DEPI website (as a Working Document).
4. One industry member expressed concern that the role of government in urchin research outlined in the draft Guidelines was new information and that industry are currently in discussions with the Minister’s Office on this matter. DEPI noted that this matter had been previously discussed in FCRSC #30. DEPI agreed to amend this section of the draft Guidelines and retain material only relevant to cost recovery. The Committee noted that FCRSC was created to provide advice on issues that concerned all of industry, and it would not generally be appropriate for the Guidelines to address issues related to a particular fishery. .

**ACTION ITEM:**

1. DEPI to amend the draft Guidelines for the operation of the prospective cost recovery system following the feedback of the FCRSC, ready to be tabled at FCRSC #34 as version 1. DEPI will seek FCRSC comments prior to FCRSC #34 to be incorporated in version 1.
2. DEPI to re-circulate the urchin research discussion paper to FCRSC members, along with FCRSC #30 Minutes.

***5(c) Update on fishery-specific consultation regarding the level of services***

**BACKGROUND:**  At FCRSC meeting #30, the Committee provided their support for Fishery Specific Forums. It was proposed to use existing organisations and meetings such as Total Allowable Commercial Catch (TACC) meetings in quota managed fisheries, or zonal forums to consult with particular fisheries where those existed. SIV previously agreed to work with DEPI to organise forums to consult with the remaining wild-catch fisheries via other means, subject to the exact process and timeline being determined.

The FCRSC agreed that the annual process should occur between July and October each year. However, during the first trial year, DEPI is aiming to meet with all fisheries in the first half of 2014 to provide the opportunity for consultation with industry to refine service schedules.

DEPI will provide the FCRSC with an update on the consultation undertaken thus far, and the process to complete consultation with remaining fisheries.

**RECOMMENDATION:** For discussion.

**OUTCOME:**

1. The FCRSC noted that a key part of the new cost recovery system is greater industry engagement on the nature, extent and design of cost recoverable services through both the FCRSC and new, annual, fishery-specific forums.
2. Industry expressed some concerns that attempting to undertake detailed cost recovery discussions at forums such as TACC setting workshops would not be effective, and smaller, targeted meetings would be necessary to develop the understanding and options for future services and costs.
3. The FCRSC noted that the fishery-specific consultation that will occur in 2014 relates to the nature and extent of cost recoverable services to be provided in the 2015/16 licensing year, commencing 1 April 2015.
4. The FCRSC noted that fishery-specific forums have been held to date for Abalone (Central, Western Zones), Rock Lobster (Eastern and Western Zones) and Giant Grab fisheries. These forums have been conducted in good faith with both industry and DEPI working together to find ways to lower costs. The FCRSC further noted that multiple action items have come out of each fishery-specific consultation meeting, and DEPI is working through each action item.
5. The FCRSC further noted that DEPI is looking to schedule cost recovery forums for the remaining fisheries over the next three months. DEPI are keen to get dates and locations confirmed to provide industry with advance notice and to initiate discussions in the lead up to those forums.
6. The remaining fisheries include bay and inlet fisheries, bait fisheries, the eel fishery, ocean fisheries (including ocean access, purse seine, scallop, trawl inshore and wrasse), fish receivers and aquaculture.
7. The FCRSC noted that DEPI discussed how best to consult with the above fisheries with the former SIV EO, Renee Vajtauer, in December 2013.Thhis discussion is reflected in the minutes of FCRSC #31 and #32. DEPI's preference would be to hold the meetings earlier than October to enable sufficient time to make adjust the 2015/16 Licensing year levies.
8. The other remaining fisheries do not have specific associations. It has been suggested that forums could be arranged on a regional basis to cover the other fisheries - perhaps with a general session - and then specific sessions for different fisheries/licence classes.
9. The FCRSC noted that initial discussions with the new Executive Director of SIV, Johnathon Davey had commenced. DEPI is keen to work with SIV to ensure high levels of participation at the cost recovery forums and DEPI proposed a consultation structure for discussion with Johnathon recently. SIV noted that it is happy to assist with informing members of the meetings and will represent its Members at these meetings, however DEPI must organise the meetings. The structure is based on four regional forums, with separate sessions for fisheries outlined above in point 7. DEPI will work with SIV to arrange these forums at a suitable time for maximum industry participation, with DEPI presenting and covering any costs such as hall hire, catering etc. SIV would assist with promoting the forums amongst its members and survey its members to determine any cost recovery issues prior to the forums.
10. The FCRSC agreed that all entitlement holders will be invited to attend the relevant meeting.

Traralgon - VBIFA meeting. This could be used to discuss Corner Inlet, Gippsland Lakes, Port Phillip Bay Purse Seine and Westernport/Port Phillip Bay licence categories. The two Port Phillip bay licence categories could also attend a Queenscliff meeting.

Lakes Entrance. Separate sessions for the following fisheries:

a) Bait licences

b) Ocean Access

c) Trawl Inshore

d) Purse Seine Ocean

e) Ocean Scallop

Queenscliff. Separate sessions for the following fisheries:

a) Ocean Access

b)Trawl Inshore

c) Wrasse

d) Ocean Scallop

e) Fish Receivers (abalone)

f) Port Phillip Bay Purse Seine

g) Western Port / Port Phillip Bay

Warrnambool. Separate sessions for the following fisheries:

a) Ocean Access

b) Wrasse

1. The FCRSC agreed that SIV is in no way endorsing the proposed levies for industry. SIV is simply assisting entitlement holders in discussions with DEPI regarding the nature and extent of cost recoverable services to be provided in the 2015/16 licensing year.
2. The FCRSC noted that there are forums that could be used for meetings with the eel fishery and aquaculture operators.
3. The aquaculture industry representative reaffirmed industry’s position that they are interested in consultation to further reduce the cost recovery levies. DEPI advised that following internal discussions with the aquaculture manager, DEPI was proposing two aquaculture meetings, one at Queenscliff (mariculture) and one at Snobs Creek (freshwater).
4. The FCRSC noted that the private land freshwater aquaculture operators will consider the need to have a fishery-specific consultation meeting when DEPI advise a) why do private land aquaculture operators face cost recovery levies for fisheries services not faced by agriculture industries such as sheep, cattle, etc.), and b) what type of infringements are compliance officers looking for when conducting inspections of private land aquaculture operations. In regards to a) DEPI agreed to provide a written response to industry’s query before the next FCRSC meeting.
5. A follow up action item is for DEPI to advise the FCRSC what levies, cost recovery or otherwise, other agriculture industries pay. The Chair specified that this is not to be a time consuming, detailed exercise that takes DEPI’s focus away from the primary focus at this stage of completing the fishery-specific cost recovery consultation.
6. One industry member affiliated with the rock lobster western zone reaffirmed that the rock lobster industry is ready now to build on the fishery-specific consultation that has taken place thus far, with more detailed discussions on the nature and extent of cost recoverable services to be provided, and expressed dissatisfaction with the time DEPI is taking to address RL WZ fishery-specific queries. The FCRSC noted the urgency from RL WZ entitlement holders, but also that fishery-specific consultation needs to occur across all 42 licence classes. The FCRSC further noted the significant amount of work required by DEPI to develop suitable business systems to support the prospective cost recovery system, and that DEPI was doing its best to address the many queries, as well as those from the FCRSC. DEPI reaffirmed its commitment to improve its response times to industry queries.
7. The FCRSC noted that there was significant planning involved by DEPI to enable representatives from each branch to be prepared regarding specific queries, and to attend fishery-specific meetings across the State.
8. The FCRSC noted that the fishery-specific consultation needs to be concluded by 1 October 2014 to enable sufficient time to amend the regulations for the 2015/16 licensing year.
9. The FCRSC agreed that additional meetings with the three abalone zones should occur by 31 May 2014.
10. The FCRSC agreed that an additional meeting with the Rock Lobster and Giant Crab fisheries should occur by 30 June 2014. The forum could be the multi-sectoral MAC proposed to revise the management plan. DEPI to release draft ToR for MAC by 30 May 2014, with the intention of holding the first MAC to discuss matters including cost recovery by 30 June 2014 , subject to industry identifying suitable participants that are representative of entitlement holders.
11. The FCRSC agreed that the consultation between aquaculture and eel entitlement holders should occur by 30 August 2014.
12. The FCRSC agreed that the four regional meetings should be completed by 30 August 2014, subject to further discussions between DEPI and SIV on suitable dates/times, etc.
13. The FCRSC agreed that there may be an opportunity for DEPI to combine the additional meetings with abalone and RL fisheries with the regional forums, for example Warrnambool. This would reduce travel and cost burden on DEPI to complete all the fishery-specific consultation as required.
14. The FCRSC agreed that SIV would advise industry entitlement holders of the proposed meetings, with as much notice as possible. This advice would contain the draft agenda, meeting date, updated schedule of services for the fishery and an invitation for industry to note any particular issues related to cost recoverable services that they wish to have addressed in the forums.
15. The FCRSC noted that DEPI is currently updating the cost recovery schedules for each fishery to include a better definition of each service and more measurable key performance indicators. DEPI will forward those amended schedules to SIV by 15 May 2014.
16. The FCRSC noted that in 2014, the first trial year of the system, consultation was being conducted on an ad hoc basis, but with good intentions from DEPI. The FCRSC agreed that a more detailed fishery-specific consultation process and timetable would be established, in consultation with the FCRSC, in due course.

**ACTION ITEM:**

1. DEPI to advise the FCRSC why private land aquaculture operators face cost recovery levies for fisheries services not faced by other agriculture industry such as sheep, cattle, etc.
2. DEPI to advise the FCRSC what levies, cost recovery or otherwise, other agriculture industries pay.
3. DEPI to determine if the election caretaker mode later in 2014 will impact on DEPI’s ability to amend the regulations relating to the 2015/16 licensing year.
4. DEPI to complete the updates to the cost recovery schedules and provide to SIV by 15 May 2014.
5. DEPI to work with SIV to determine suitable dates/times, etc. to schedule the 4 regional forums.
6. DEPI to finalise consultation with all fisheries by 30 August 2014.
7. SIV to advise industry entitlement holders of meetings, with as much notice as possible. This advice would contain the draft agenda, meeting date, schedule of services for the fishery and an invitation to raise particular issues related to cost recoverable services that they wish to have addressed in the forums.

***5(d) Pilot candidates for contestability***

**BACKGROUND:**  DEPI is supportive, in principle, of alternative service providers delivering cost recoverable services to industry at a lower cost than DEPI, noting that some types of services could not be delivered outside of Government.

DEPI 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.

There are approximately 250 services provided to industry by DEPI in the schedules, noting that some services are grouped such as cost recovery administration.

At FCRSC #32, DEPI suggested that industry prioritise those services that could be delivered by alternative service providers for review. The FCRSC could then work on one or two pilots.

**RECOMMENDATION:** For discussion.

**OUTCOME:**

1. The FCRSC agreed that the first priority is to complete the fishery-specific consultation to better specify the nature and extent of cost recoverable services.
2. Once this has been completed, industry confirmed its intention to work with DEPI, via the FCSRC, to prioritise those services for consideration of delivery by alternative service providers.

**ACTION ITEM:**

1. The FCSRC agreed to consider options to prioritise those services that could be delivered by alternative service providers for review at FCRSC meeting #34.

**6) Other Business**

***6(a) FCRSC Meeting Minutes Template***

**OUTCOME:**

1. The FCRSC agreed further information about each completed Action Item would greatly improve the Minutes for readers who are not affiliated with the FCRSC. DEPI agreed to amend the template to ensure that the information provided to the FCRSC out of session regarding action items is included in the Minutes.
2. The FCRSC agreed to put a realistic completion date against each Action Item so that the FCRSC could effectively monitor the successful completion of Action Items in a timely manner.
3. A recently appointed industry member queried why there is a duplication of information/text in multiple meeting Minutes. The FCRSC noted that the meeting Minutes are a reflection of the discussions that take place at FCRSC meetings, and that during the development of the prospective cost recovery system, the same issues have been raised by industry advisors to the FCRSC. It was agreed to try and minimise duplication by referring to sections of the draft Operating Guidelines.

**ACTION ITEM:**

1. DEPI to amend the FCRSC Minutes template to ensure that the information provided to the FCRSC regarding action items is included in the Minutes and the agenda for upcoming meetings.
2. The FCRSC also agreed to provide a specific timeframe for action items included in the Minutes.

***6(b) Previous FCRSC Action Items***

Regulatory Impact Statement

1. At FCRSC #32, the FCRSC asked DEPI to review the legality of the RIS in consideration of the public submissions received. DEPI considers the Action Item complete because on 13 December 2013, DEPI advised the FCRSC via email:

**ADEQUACY OF THE REGULATORY IMPACT STATEMENT FOR THE FISHERIES (FEES, ROYALTIES AND LEVIES) FURTHER AMENDMENT REGULATIONS 2013**

In July 2013 the Minister for Agriculture and Food Security released a Regulatory Impact Statement (RIS) in relation to proposed amendments to the Fisheries (Fees, Royalties and Levies) Further Amendment Regulations 2013 for 60 days of public comment, with submissions closing on 24 September 2013.

As the authority within government on regulatory impact statements, confirmation was sought from VCEC on their view on the fees and levies RIS. VCEC has advised that it is satisfied that the requirements of the Subordinated Legislation Act (SLA) for which VCEC is responsible (i.e., independent advice on the adequacy of RIS analysis) have been met. Stakeholders are free to challenge VCEC’s advice on the adequacy of the analysis, but VCEC believes that there is no new information that would lead it to revise its advice.

It is VCEC’s view that, for the Fisheries (Fees, Royalties and Levies) RIS, the SLA process appears to be working as intended. For example:

* a RIS was prepared, independent advice on adequacy from VCEC was obtained and the RIS was released for public consultation;
* stakeholders had the opportunity to test and challenge the impact analysis and provide additional/alternative data and evidence for consideration by the government;
* government is required to consider any stakeholder comments, and may choose to revise the proposed regulations (e.g., in light of new, credible information that should be taken into account in a revised analysis) or implement the proposed regulations unchanged;
* once the regulations are made, the Scrutiny of Acts and Regulations Committee (SARC) review them for compliance with the SLA requirements (this has not yet occurred).

The following information is provided in relation to the RIS:

Independent advice – The VCEC provided independent advice on the adequacy of the analysis in the RIS, which means that VCEC considered that the RIS complied with section 10 of the Subordinate Legislation Act. VCEC provided advice independent of DEPI that the analysis of options for changes to fisheries fees and levies were adequate having regard to the overall impact of the proposed regulations (changes to cost allocation and cost recovery which raised $4 million over 4 years), and that the nature of the analysis (including direct financial impacts and higher level market impacts based on relevant data and transparent assumptions/judgements) was adequate.

Adequate analysis – Independent advice by VCEC on the adequacy of the analysis in a RIS does not necessarily mean that the analysis of costs and benefits (or other impacts) is comprehensive or accurate. Instead, ‘adequacy’ means that the cost-benefits analysis is adequate for consultation (e.g., appropriate data is used and assumptions appear transparent and reasonable), as the government’s best estimate at the time the RIS was completed (see the Victorian Guide to Regulation, section 4.3.5, p58). Consultation has then allowed the analysis and supporting evidence to be tested and challenged.

Public consultation – Public consultation provides for further independent scrutiny of proposed regulations. Stakeholders may have new, credible evidence, data or other information that was not available to inform the analysis in the RIS that, when taken into account, cause the analysis and preferred option in a RIS to be revised (even where VCEC advised that the RIS was ‘adequate’). This is a fundamental element of the RIS process. While the views of stakeholders need to be genuinely considered, the government is not obliged to revise its approach.

Further review – In addition to the public consultation process, stakeholders have a range of potential approaches should they have residual concerns, including to raise those concerns directly with the responsible Minister. Once the regulations have been made, SARC reviews them for compliance with a range of issues, including consistency with the authorising Act and with the regulation-making processes/requirements in the SLA. Depending on the outcome of the review, SARC could recommend that the Minister amend the regulations to address concerns or recommend action to Parliament (including to disallow the regulations).

DEPI sought legal advice and on the basis of that legal advice and the appropriate role of VCEC on this matter, DEPI does not propose to seek any further legal advice about the adequacy of the RIS for the Fisheries (Fees, Royalties and Levies) Further Amendment Regulations.

1. Some industry members of the FCRSC maintain the view that the RIS did not meet the requirements of the *Subordinate Legislations Act 1994* and fails to meet the requirements of the Department of Treasury & Finance’s Cost Recovery Guidelines. At FCRSC #32, Industry wanted DEPI to provide the FCRSC with independent legal advice on the RIS. Industry does not consider VCEC to be independent and therefore consider their request for independent legal advice on the RIS, i.e. this action item, to have not been met.
2. The FCRSC noted that the Scrutiny of Acts & Regulations Committee (SARC), a Parliamentary Committee, would be the next entity for industry to pursue this matter with.
3. Industry advised the FCRSC of its intention to make a submission to SARC that the RIS did not meet the requirements of the *Subordinate Legislations Act 1994* and fails to meet the requirements of the Department of Treasury & Finance’s Cost Recovery Guidelines. DEPI agreed to find out whether they could provide industry with the contact details for SARC. If permitted, DEPI will then provide those contact details to industry.

GVP and Economic data

1. At FCRSC #31, the FCRSC asked DEPI to confirm how the currently available GVP was calculated for various fisheries. There appears to be a different process for calculating GVP in different fisheries, i.e. are transportation costs included in the calculation for all fisheries? The FCRSC suggested DEPI develop a table which lists all 42 licence classes and the method of calculating GVP for each. DEPI agreed to develop the table by FCRSC #34.
2. At FCRSC #30, the FCRSC asked DEPI to clarify how it will collect economic data on Victoria’s fisheries in the future and as the prospective cost recovery system is implemented. The request followed advice from DEPI that the Melbourne Fish Market no longer provides price data to DEPI. The FCRSC noted that DEPI has production figures via catch & effort returns, and that abalone beach price is provided by abalone fish receivers, however obtaining price data for other fisheries is a concern. The FCRSC noted that the FRDC levy is based on a % of GVP for each licence class. The FCRSC agreed that DEPI should work with SIV to determine how DEPI can be provided with economic data in the future, to enable the accurate setting of FRDC levies, by 30 July 2014.

**ACTION ITEM:**

1. DEPI to find out whether they could provide industry with the contact details for SARC. If permitted, DEPI will then provide those contact details to industry.
2. DEPI to develop a table which lists all 42 licence classes and the method of calculating GVP for each fishery for consideration of the FCRSC.
3. DEPI to work with SIV to determine how DEPI can receive price data, to enable the accurate setting of FRDC levies in future years, by 30 July 2014.

***6(c) Compliance (Inspection) Principles for Cost Recovery Inspection Definition***

**OUTCOME:**

1. Ian Parks, A/Director Education & Enforcement tabled a working document ‘*Compliance (Inspection) Principles for Cost Recovery Inspection Definition*’ Discussion paper for consideration of the FCRSC (Attachment 1).
2. One industry member expressed concern that the description of ‘inspections’ outlined in the RIS differs significantly to the definition of ‘inspections’ outlined in the RIS.
   1. The definition of ‘inspections’ as presented in the RIS was read out: “On-water, in transit and premise inspections”.
3. The FCRSC provided some preliminary suggested amendments to the principles for DEPI’s consideration.
4. The FCRSC agreed that once finalised, the Compliance (Inspection) Principles for Cost Recovery Inspection Definition should be included in the Operating Guidelines.

**ACTION ITEM:**

1. The FCSRC to provide any additional comments/feedback to DEPI on the ‘Compliance (Inspection) Principles for Cost Recovery Inspection Definition’ by Wednesday 14 May 2014.
2. DEPI to consider FCRSC feedback and table a revised discussion paper at FCRSC #34, or prior to this meeting to allow the definition to possibly be agreed at FCRSC #34.

***6(d) Miscellaneous matters pertaining to cost recovery***

**OUTCOME:**

1. The FCRSC agreed that a forward calendar of FCRSC meetings, to be published on the DEPI website, was required for a number of reasons such as industry awareness of meetings, suitable notice of meetings, and to coincide with the quarterly reporting on cost recoverable services from DEPI. The FCRSC agreed that as the fishery-specific consultation is the focus for DEPI between now and 31 October 2014. A forward calendar would be developed and tabled at the first FCRSC meeting after 31 October 2014 this year.
2. DEPI agreed to develop a timetable for 2014 that included planned FCRSC meetings, regional fishery-specific meetings and quarterly reporting deadlines that coincide with DEPI’s ability to make any regulatory amendments prior to the 2015/16 licensing year.
3. Industry advised DEPI that there is concern/anger that the Victorian Government does not understand the total costs for participating in a fishery, not just DEPI levies, that industry face.
4. The FCRSC noted that DEPI is concerned about the process to commence the quarterly reporting. The FCRSC acknowledged that there is a cultural shift occurring within DEPI, and that the reporting process may take some time to finalise. The Chair advised the FCRSC that this is why there is a two year trial period, to enable suitable business systems to be established/implemented. It would be unrealistic to expect DEPI to have the reporting process 100% accurate in the first quarter of the new system.

**ACTION ITEM:**

1. DEPI to develop a timetable for 2014 that included planned FCRSC meetings, fishery-specific fourms and quarterly reporting deadlines that coincide with DEPI’s ability to make regulatory amendments prior to the 2015/16 licensing year.

***6(e) Executive Support***

**OUTCOME:**

1. The Committee noted the resignation of Chris Padovani, Executive Officer, FCRSC. Geoff Ellis, on behalf of the FCRSC, thanked Chris for his previous contributions to fisheries cost recovery, and his professional manner in assisting members of the FCRSC on often quite complex matters. These comments were seconded by the Chair. The Committee noted that a new Executive Officer will be appointed to provide administrative support to FCRSC.
2. The Chair stated that he would recognise Mr Padovani’s contribution to the FCRSC in his letter to the Minister.

**7) Next meeting:**

FCRSC #34 to be held in August at a date to be confirmed.

FCRSC #35 to be held in September at date to be confirmed.

Meeting closed at: 3:30pm.

**ACTION ITEMS**

|  |  |  |  |
| --- | --- | --- | --- |
| **ITEM** | **ACTION** | **RESPONSIBILITY** | **DUE DATE** |
| **33-5(a)** | 1. DEPI to develop a register of interest template for use from FCRSC #34 onwards. 2. DEPI to amend the draft ToRs as instructed by the FCRSC and circulate to the FCRSC for further comment by Tuesday 6 May 2014. 3. FCRSC members to review the amended draft ToRs and provide any additional comments/feedback to DEPI by 5pm Thursday 29 May 2014. | DEPI  DEPI  FCRSC | To be provided with draft agenda two weeks before FCRSC #34  6 May 2014  29 May 2014 |
| **33-5(b)** | 1. DEPI to amend the draft Guidelines for the operation of the prospective cost recovery system following the feedback of the FCRSC, ready to be tabled at FCRSC #34 as version 1. DEPI will seek FCRSC comments prior to FCRSC #34 to be incorporated in version 1. 2. . 3. DEPI to provide the urchin research discussion paper to FCRSC, along with FCRSC #30 Minutes. | DEPI  DEPI | To be provided with draft agenda two weeks before FCRSC #34  6 May 2014 |
| **33-5(c)** | 1. DEPI to advise the FCRSC why private land aquaculture operators face cost recovery levies for fisheries services not faced by agriculture industries such as sheep, cattle, etc. 2. DEPI to advise the FCRSC what levies, cost recovery or otherwise, other agriculture industries pay. 3. DEPI to determine if the election caretaker mode later in 2014 will impact on DEPI’s ability to amend the regulations relating to the 2015/16 licensing year. 4. DEPI to complete the updates to the cost recovery schedules and provide to SIV by 15 May 2014. 5. DEPI to work with SIV to determine suitable dates/times, etc. to schedule the 4 regional forums. 6. DEPI to finalise consultation with all fisheries by 30 August 2014. 7. SIV to advise industry entitlement holders of meetings, with as much notice as possible. | DEPI  DEPI  DEPI  DEPI  DEPI  DEPI  SIV | 30 May 2014  To be provided with draft agenda two weeks before FCRSC #34  29 May 2014  15 May 2014  30 May 2014  30 August 2014  30 August 2014 |
| **33-5(d)** | 1. The FCSRC to prioritise those services that could be delivered by alternative service providers for consideration at FCRSC meeting #34. | FCRSC | For discussion at FCRSC #34 |
| **33-6(a)** | 1. DEPI to amend the FCRSC Minutes template to ensure that detailed information provided to the FCRSC regarding action items is included in the Minutes 2. The FCRSC also agreed to provide a specific timeframe for action items included in the Minutes.. | DEPI | 6 May 2014 |
| **33-6(b)** | 1. DEPI to find out whether they could provide industry with the contact details for SARC. If permitted, DEPI will then provide those contact details to industry. 2. DEPI to develop a table which lists all 42 licence classes and the method of calculating GVP for each fishery for consideration of the FCRSC. 3. DEPI to work with SIV to determine how DEPI can be provided with price data, to enable the accurate setting of FRDC levies in future years, by 30 July 2014. | DEPI  DEPI  DEPI/SIV | 15 May 2014  To be provided with draft agenda two weeks before FCRSC #34  To be provided with draft agenda two weeks before FCRSC #34 |
| **33-6(c)** | 1. The FCSRC to provide any additional comments/feedback to DEPI on the ‘Compliance (Inspection) Principles for Cost Recovery Inspection Definition’ by Wednesday 14 May 2014. 2. DEPI to consider FCRSC feedback and table a revised discussion paper at FCRSC #34. | FCRSC  DEPI | 14 May 2014  To be provided with draft agenda two weeks before FCRSC #34 |
| **33-6(d)** | 1. DEPI to develop a timetable for 2014 that included planned FCRSC meetings, quarterly reporting and coincided with DEPI’s ability to make any regulatory amendments prior to the 2015/16 licensing year. | DEPI | 25 May 2014 |

**Attachment 1**

**Cost Recovery Compliance (Inspection) Principles**

**Inspection Definition**

"Any inspection of people or equipment on water or on land conducted in a manner that would detect offences if they have been committed."

* This may also include specific observations made by Officers of activities at or near the place of inspection (such as observations of the landing process).
* A commercial operator who is fishing on two or more fishing licences would be recorded as 2 commercial inspections against the separate fisheries listed in our recording system. However in calculating the cost recovered service in this scenario we would apportion the time between each fishery.
* Inspections conducted at a fish receiver or processor premises to check compliance by the fisher will be recorded against the relevant fishery. Inspections conducted at a fish receiver/processor to check compliance by the receiver/processor will be recorded against the relevant receiver or processor category. Inspections of both fisher and receiver at the receiver’s premises will be recorded against both categories.
* Some inspections may be carried out in the absence of the fisher, including but not limited to:
* Inspecting a fyke net set in a river or lake to ensure licence conditions are being met (e.g. float size, licence no. marked, mesh size of net, location of net etc. etc.);
* Inspecting a rock lobster float attached to a pot at sea and/or hauling the pot (e.g. licence no. marked, escape gaps in place and open etc. etc.);
* Inspecting a rock lobster coff; or
* Inspecting any other unattended commercial fishing equipment.

**Surveillance Definition** (Not cost recovered)

“Covert or overt observation of activities on land or at sea by officers or through technology to gather information.”

Surveillance is an activity of observation undertaken at any time or in any location either overtly or covertly to gather evidence of offending or intelligence without direct contact with the Commercial Fisher (or their equipment). (This activity contributes to cost effective targeted investigations and operations.)

**Inspection Costing Principles**

Numbers of Officers

Time estimations for inspection services will be multiplied by the number of officers involved.

*Inspections on-land* – These are costed at a minimum of 2 FO's per inspection

Explanatory - Officers work 2-up in the vast majority of cases when doing inspections although in some circumstances there may be a need for additional officers i.e. processor inspections

*Inspections on –water –* These are costed at a minimum of 3 FO's per marine inspection and 2 FO’s per inland waters inspection

Explanatory - Ocean-going vessels require a crew of 3 FO's for safety and operational reasons

Apportionment of time

*Inclusions –*

* Preparing for the inspection – checking of licensing system, preparing vehicles, vessels and equipment, waiting for fisher to arrive at place of landing etc.
* Travel – Time taken to travel to and from the inspection location, including locating the fisher or their equipment (both on-land and on water)
* Post inspection – completion of inspection related paperwork, required follow up, recording inspection, cleaning or refurbishing equipment used to conduct inspection etc.

*Exclusions –*

* Non-commercial or non-inspection related activities conducted, such as:
  + Recreational inspections & patrols
  + Marine Parks patrols

Example - an on-water inspection patrol to inspect a Western Zone Rock Lobster operator near Warrnambool will ordinarily also involve inspections of boat-based recreational anglers. Therefore the time taken to do these inspections is not included in the time calculated to complete an average Western Zone Rock Lobster operator inspection patrol.

* The total hours for an inspection will be divided by the average number of commercial operators usually inspected during an inspection patrol  
    
  Explanatory - at some ports multiple land-based inspections of operators in the same commercial fishery can usually be done during an inspection patrol, similarly in some cases multiple operators from the same fishery are inspected during a patrol

In-transit inspections will take longer to complete than normal land-based inspections  
  
Explanatory - this is due to undertaking observations at landing, following the vehicle to a suitable interception point, interception, unloading the bins, weighing and recording weights / number