

DEPARTMENT OF PRIMARY INDUSTRIES AND WATER

MARINE PROTECTED AREAS – DISPLACEMENT ASSESSMENT PROCESS

Background

During the development of the *Tasmanian Marine Protected Areas Strategy* released in 2001, the issue of displacement and compensation was considered by a working group of representatives from the Tasmanian Fishing Industry Council and the Departments of Primary Industries, Water and Environment, Premier and Cabinet and Treasury and Finance.

The outcome was the following statement on page 7 of the report.

“**Displacement** – the Tasmanian Government recognises the importance of displacement issues. To address these issues, the Tasmanian Government has agreed to establish a process for providing special adjustment payments on a case by case basis (*ex poste*) to certain individuals directly affected by a Marine Protected Area.”

This paper sets out the framework in which structural adjustment will be assessed.

Assessment Guidelines

It is expected that an estimation or risk assessment of likely impact on fishers or a fishery would be made during the selection and establishment phase of the MPA. The Minister would then have an indication of the possible magnitude of any likely request for structural adjustment prior to the declaration of an MPA.

It is also expected that not all MPAs will impose an adverse impact on commercial fishers. If a flexible approach is taken with respect to the range of options that may be available to the Government for structural adjustment it would allow assistance to be more appropriately matched to each individual's circumstances.

The impact of an MPA can be considered at 2 levels, the impact on the fishery as a whole, or the impact on an individual's fishing operation. The stated policy is that the latter situation will be the only one to be addressed through the structural adjustment process.

Administrative Process and Coordination

Any submission or application for structural adjustment should be made in writing stating the licence holder's case and submitted to the Secretary, Department of Primary Industries and Water within three months of the implementation of a MPA. The Secretary may extend the period for lodgement depending on the circumstances that would justify an extension.

Alternatively, the Secretary may determine an explicit cut off date for the acceptance of applications for structural adjustment relating to the declaration of specific individual MPAs.

The review and assessment of the application to be completed and a recommendation submitted to the Minister within 3 months of receipt of the application.

The Primary Industries Division of the Agency will manage the administrative process of the Assessment Panel.

Assessment Panel Task and Composition

The task of the Panel will be to carefully assess the level of dependency of the applicant on the area protected and make a recommendation or recommendations to the Minister as to adjustment options.

Intra agency coordination may be necessary in researching and assessing applications for structural adjustment.

The Assessment Panel will comprise three members all appointed by the Minister. That is:

- The Chair of the Assessment Panel will be an independent person;
- a person drawn from nominations presented by TFIC; and
- A person nominated by the Secretary.

Guiding Principles

The following principles will apply to the process of assessment of applications for structural adjustment.

1. The consideration of applications for structural adjustment will be made after a MPA has been established and the commercial and other activities within that MPA have been determined.
2. Structural adjustment will only be assessed for applications by individuals.
3. Licence holders affected will be assessed on a case by case basis and will take account of the degree of dependency of the applicant in relation to his/her activities historically carried out in that area.
4. State and Commonwealth licence holders will be considered equally regardless of the jurisdictional arrangements under which they are operating.

Individual Assessment criteria

People seeking eligibility for structural adjustment will have to show that:

- 1) they have experienced significant material financial hardship as a result of the creation of a MPA and the management regime applying within that MPA; and
- 2) there are no feasible alternative areas or other options available for them to conduct their activities.

Form of Structural Adjustment

Recommendations will be forwarded to the Minister for Primary Industries and Water. Applicants may provide some advice as to the form of structural adjustment they are seeking and thus how their application relates to the specific nature of their historic fishing activities.

It is recognised that declaration of MPAs may have an impact as catch and effort is displaced to other areas. Clearly, the size, scope and activity within any new MPA will determine the possible scope of displacement issues. In many case the effects may be minimal, and in others it may be more significant.

It is not the role of the structural adjustment process to address or ameliorate displacement issues. Should these issues be significant enough, the fisheries management processes will need to consider those issues.

However, the panel may wish to consider the impact of displacement issues when considering options for the form of adjustment to be offered.

Decision options would include:

1. No compensation to be provided.
2. Surrender licence at a fair market value.
3. An ex gratia payment to compensate for the cost of readjustment over a maximum of three years.
4. Continued conditional access to multiple use areas (only) where restricted fishing is permitted.

For option 4, (continued access) a strict assessment of the form of fishing and the conservation values for that area identified will be required. If it is considered that a form of access can be developed that will minimise impacts on those values, only then may option 4 be considered.

Any continued access arrangements will be facilitated through non-transferable endorsements. Access through endorsement may be restricted spatially, temporally, by gear type, by amount of gear or in other ways considered appropriate. They must not allow any increase in catch by any individuals in that area and must be constrained to historic catches at the maximum.

Continued access arrangements will facilitate continued access for a maximum of 10 years.

Assessment Panel – Terms of Reference

The Panel will, in assessing an application for structural adjustment consider the following:

- An assessment of the level of dependency of the applicant's business with respect to those fishing activities that would otherwise not be allowed by the establishment of the marine protected area based on historical fishing activity.
- An assessment of the ability or capacity of the applicant to relocate fishing activities to alternative areas.

The Panel will make a recommendation or recommend options to the Minister for consideration.

Representations to the Panel by the Applicant

The Panel will consider written submissions from an applicant and provide the applicant with the opportunity to present his case in person and with the assistance of an advocate if the applicant so desires.

Applicants should support their application with as much of the factual material as possible necessary to assess their particular application.

Signed by: **David Llewellyn**
 Minister for Primary Industries, and Water

Date: **29 October 2007**