



Department of
**Primary Industries and
Regional Development**



WAFIC WESTERN AUSTRALIAN
FISHING INDUSTRY
COUNCIL INC

Discussion Paper:

Improvements to fisheries compensation processes and valuation methodologies in Western Australia

Prepared by the Compensation Working Group

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Important disclaimer

The ideas expressed in this discussion paper reflect the views of the members of the Compensation Working Group. They are presented to stimulate discussion and to generate broader feedback from stakeholders. They do NOT reflect an agreed government position nor formal government policy on these issues and have not been endorsed by the Director General of the Department of Primary Industries and Regional Development, the WAFIC Board nor the Minister for Fisheries.

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Background

A Compensation Working Group (WG) has been established to provide advice for consideration by the Minister for Fisheries regarding more transparent and consistent compensation processes which deliver greater certainty, are less onerous, more timely and more equitable for fishers.

The WG is considering the principles and recommendations contained within the [FRDC compensation report](#) (2022-021), and how these can be applied to commercial fisheries in Western Australia (WA), under both the:

- *Fisheries Adjustment Schemes Act 1987*; which is the legislation that provides for the establishment of a Voluntary Fisheries Adjustment Scheme (VFAS) under which entitlements may be voluntarily surrendered for compensation; and
- *Fishing and Related Industries Compensation (Marine Reserves) Act 1997* (FRICMA), which is the compensation process required by law arising from the implementation of a marine park in WA waters.

While the priority focus is on improving processes under VFAS, particularly in light of the current processes for the Greater Kimberley Marine Park (GKMP) and South Coast Marine Park (SCMP), the WG is also considering how principles of reform could be applied to inform and strengthen compensation processes under the FRICMA (noting the legislation provides some constraints).

The WG is Chaired by the WAFIC CEO, Ms. Melissa Haslam, and comprises members from DPIRD and WAFIC. Technical advice is provided by Dr Paul McLeod, Consultant Economist and author of the FRDC Compensation report.

Relationship between FRICMA and VFAS

FRICMA provides the statutory framework for compensating right holders where access to fisheries resources is removed or reduced as a result of the establishment of a marine park.

The VFAS, is a separate legislative mechanism designed to facilitate voluntary surrender of fishing entitlements for resource sustainability, restructuring or other management purposes.

In some cases, these two frameworks can operate concurrently in relation to the same fishery or region. This can create several challenges for affected parties:

- Timing and sequencing issues: fishers may face uncertainty about which process will conclude first, impacting their decision-making.

- Different valuation methodologies: each framework may apply different criteria for calculating compensation, creating inconsistency and perceived inequity.
- Eligibility and process confusion: some right holders may qualify under both frameworks, while others only under one, leading to misunderstandings and potential disputes.
- Strategic behaviour risks: concurrent processes may unintentionally encourage parties to delay engagement or hold out for a more favourable scheme.

Issues in scope

The Compensation Working Group is considering the following questions

1. How to best apply key principles from the FRDC report to the current South Coast Marine Park and Greater Kimberley Marine Park¹ adjustment and compensation processes:
 - a) recommend process improvements (i.e. relating to transparency, improved collaboration, inclusive etc.) .
 - b) recommend most appropriate methodologies to value authorisations (licences and entitlement) in individual fisheries affected by GKMP and SCMP .
 - c) recommend additional adjustment / compensation considerations over and above historical practices i.e.
 - impacts on vertically integrated businesses,
 - solatium payment
 - associated licences or entitlement fished outside of marine park.
2. advise if any potential initiatives for broader industry support package are identified (which can be referred to Goldfields Esperance Development Commission for further consideration).
3. Advise on broader principles for adjustment and compensation generally (including non-marine park processes) and considerations for potential future legislative reform should there be a future desire from Government to pursue this option.

This discussion paper provides the Compensation Working Groups preliminary views on the issues above. Industry feedback is now invited and will be considered in shaping the final recommendations of the Working Group.

Issues out of scope

The following compensation related issues are out of scope for this process:

- Compensation processes associated with Commonwealth Marine Parks (this is managed by the Australian Government).
- Advice regarding specific dollar values of compensation for individual fishers or licences.
- Compensation considerations for the charter sector (although principles are transferable).

¹ Including Buccaneer Archipelago Marine Parks (Bardi Jawi Gaarra, Mayala and Lalang-gaddam extension); Lalang-garram/Camden Sound; Lalang-garram/Horizontal falls, North Kimberley Marine Park.

Glossary

Term / Acronym	Meaning
Beach price	The price received by commercial fishers at the point of first landing, excluding any price margins for marketing, transport, sales commissions, packaging or value adding. Where margins are included in available beach price information, and can be reasonably estimated, those margins will be removed.
CALM Act	<p><i>Conservation and Land Management Act 1984</i> Administered by the Department of Biodiversity, Conservation and Attractions.</p> <p>This is the legislation that provides for the establishment of marine parks, and their zoning schemes, amongst other things.</p>
Committee of Management	<p>This is provided for under the FAS Act; see section 11.</p> <p>It is an independent committee who are appointed by Government, and provide advice to the Minister for Fisheries in relation to a VFAS.</p> <p>The key functions of the committee include to make recommendations as to which fisheries a VFAS should be considered for, and advise the Minister on whether to accept or reject offers made once a scheme is established.</p>
Compensation Working Group (acronym 'WG')	The membership of the Compensation Working Group is comprised of officers from DPIRD and WAFIC, and supported by Dr Paul McLeod (consultant economist) as a technical advisor. The Group is chaired by Ms. Melissa Haslam, CEO of WAFIC.
DPIRD	<p>Department of Primary Industries and Regional Development.</p> <p>WA Government agency responsible for administering West Australian fisheries compensation and adjustment legislation.</p>
FAS Act	<p><i>Fisheries Adjustment Scheme Act 1987</i></p> <p>This is the legislation that provides for a voluntary fisheries adjustment scheme.</p>
FRICMA	<i>Fishing and Related Industries Compensation (Marine Reserves) Act 1997</i>

	This is the legislation that provides the legal basis for compensation for commercial fisheries following the establishment of a State marine park.
Market value	<p>The assessed monetary value of a licence based on open-market sale. <i>Market value</i> is the estimated amount for which an asset or liability should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion (International Valuation Standards Council).</p> <p>Critically, this can be problematic in WA fisheries where limited licence trading exists, making accurate valuation challenging.</p>
Relevant event	<p>Relevant events are set out in section 4 of FRICMA.</p> <p>These include:</p> <ul style="list-style-type: none"> i) the coming into operation of an order under s13(1) of the CALM act, which results in the establishment of a marine park boundary or adding to a marine park; ii) classification of an area (i.e. zone) by notice under s 62 of the CALM Act. <p>Note these are actions under the CALM Act, not under fisheries legislation.</p>
SAT	<p>State Administrative Tribunal.</p> <p>This tribunal provides an avenue for fishers to appeal the compensation payments made under FRICMA.</p>
Solatium	<p>"something, for example money, that is given to someone to make them feel better when they have suffered in some way" (Cambridge University Press)</p> <p>A <i>solatium</i> is a form of compensation intended for non-economic, emotional, or intangible harm such as grief, inconvenience or distress. In compensation contexts, it's an add-on to financial loss, recognising pain or disruption that isn't directly tied to monetary loss.</p>
Statutory	"decided, controlled or required by law" (Cambridge University Press n.d.)

Surrender	<p>“the act of giving up something, or giving control of something to someone else” (Cambridge University Press n.d.)</p> <p>In respect of a VFAS, a <i>surrender</i> refers to the voluntary cancellation or relinquishment of a fishing licence or entitlement, in order to reduce the size of a fishery. This means that the licences surrendered are cancelled and not available to be used anymore. In instances where entitlement is surrendered, the units are removed from the capacity of the fishery.</p> <p>Reducing the size of a fishery could mean reducing the number of people fishing, reducing the number of boats in the fishery, reducing the amount of fishing gear, reducing the quantity of fish taken, reducing the area in which fishing is engaged (See section 3(3) of the FAS Act).</p>
Vertically integrated business	<p>“Vertical integration is a strategy that companies use to streamline their operations. It involves taking ownership of various stages of its production process” (Investopedia).</p> <p>In a WA fishing context this could mean a business owns both a fishing licence and a fish processing licence, for example.</p>
VFAS	<p>Voluntary Fisheries Adjustment Scheme</p> <p>This is a mechanism by which commercial fishers may offer to surrender licences and / or entitlement in return for payment from the WA Government.</p>
WAFIC	<p>Western Australian Fishing Industry Council.</p> <p>Peak representative body for commercial fishing and pearling industry in Western Australia.</p>

Paper structure

The paper presents some of the guiding principles and recommendations identified in the FRDC Report (2022-021 – *Review of Approaches for Determining Commercial Fisheries*

Compensation); and then provides commentary from the WG members on how these could be applied in a WA context. The paper is structured into two parts:

Part one: Improvements to Fisheries Compensation Processes

Part one focuses on the process principles identified on page 70 of the FRDC report (McLeod 2024). Each principle and associated descriptor from the FRDC report is presented in a text box, followed by commentary from the WG addressing:

- The level of agreement with the principle.
- Relevant current arrangements under the VFAS and FRICMA.
- How the principle could be applied in practice to improve a VFAS processes under the FAS Act.
- How the principle could be applied in practice to improve compensation processes under FRICMA.

Part two: Valuation Methodologies

Part two considers recommendations relevant to determining compensation, particularly the use of formula-based approaches. The FRDC report recommends a specific formula for ‘acquisition’ schemes, which in a WA context is applicable to schemes under the *Fisheries Adjustment Scheme Act 1987*. A different formula is recommended for compensating for impact or damages, which in a WA context is applicable to a statutory compensation scheme such as that provided under the *Fishing and Related Industries Compensation (Marine Reserves) Act 1997 (FRICMA)*. Accordingly, each of these formulas, and the components which make up the compensation amount are explored further in a WA context in this paper.

To help fishers understand in practice how this formula may be applied, some test case workings have been developed to show the application under different fishery management arrangements (for example, input managed fisheries, individual transferable effort managed fishers, individual tradable catch quota managed fisheries).

IMPORTANT NOTE: The figures indicated in these case studies DO NOT reflect real fishery values. They have been made up for illustrative purposes only.

Part 1: Improvements to fisheries compensation processes

FRDC Report Principle 1: Equitable

“A compensation process should treat all right holders on equal terms according to their relative entitlement for compensation”.

Compensation Working Group: Agree

There is broad agreement that compensation processes should be equitable in design and application.

The FRDC Report considers application of ‘procedural fairness’ criteria to fisheries compensation process (page 13-14) and references the Ombudsman of WA guidelines which indicate that ‘procedural fairness’ should apply to decisions that negatively affect an existing interest of a person or corporation. Procedural fairness ‘requires a fair and proper procedure to be used when making a decision’ (Ombudsman Western Australia 2019). The WG supports the application of procedural fairness to fisheries compensation processes. Fishers should be treated according to the same processes and guidelines, even though application of those processes and guidelines to their particular circumstances may not result in equal compensation.

What would improvements look like in practice in a VFAS?

- All offers are assessed using a consistent and transparent valuation methodology throughout the VFAS process – from the first to the final applicant.
- All participants, regardless of when an application is submitted, are treated equitably, using the same variation formula and decision rules.
- If the take up of a voluntary scheme is below stated government targets, there could be a risk that the final applicant is offered additional inducement (i.e. a higher price) to surrender their licence/entitlement. This risk could be managed by government policy indicating that if this occurred, the earlier applicants would be provided with further additional payment to ‘match’ the revised offer made to the final applicant. A policy of this nature would avoid incentives for fishers to be the final ‘hold out’ applicant.
- The valuation methodology should be publicly documented prior to the scheme opening, including agreed assumptions, multipliers and any solatium loading.
- Individual compensation amounts may differ based on entitlement holdings, activity level or recent profitability. However, the underlying valuation framework should remain consistent for all applicants.

- Where possible, base values or market references for entitlement units should be determined through independent market evidence and validated by an industry-endorsed mechanism.
- While the valuation framework must remain consistent, there may be extenuating circumstances where adjustments, such as variation in solatium loading, are justified. The areas in which discretion can be applied should be minimised and should be considered as part of the consultation processes.
- For fisheries with units of entitlement, the same base value should be applied to all units of the same type.

What would improvements look like in practice under the FRICMA?

- A consistent methodology and information base between VFAS and FRICMA should be applied wherever practicable for all fishers in the same or similar circumstances (noting the FRICMA legislation provides for compensation based on loss in *market value* of a licence or entitlement due to the implementation of a marine park, and these values can change over time).
- While FRICMA and VFAS serve different statutory functions, the WG notes that stakeholders expect the underlying approach to equity to be clearly articulated, fair and applied consistently.

FRDC Report Principle 2: Inclusive

“Compensation is to be made available to all right holders that suffer a loss”.

Compensation Working Group: Agree

There is a broad agreement that compensation should be inclusive and accessible to all eligible right holders who experience a genuine loss due to government action. However, stakeholders have raised concerns that current eligibility and scope settings do not always reflect the operational realities of the commercial fishing industry.

Current VFAS arrangements

As part of the establishment of a fisheries adjustment scheme there is a Ministerial decision made as to what types of licences and/or entitlements that Government is prepared to purchase for the purpose of surrender. This Ministerial decision is informed by advice from an independent Committee of Management that is appointed by Government to support the VFAS process.

Once these scheme parameters are set by government, participation becomes voluntary for eligible fishers within the defined group. Fishers may choose to offer their licences for surrender, or not.

What would improvements look like in practice in a VFAS?

The FRDC Report notes a lack of guidance on how the VFAS committee is to make decisions, and what criteria to apply to their decision making (for example determining what level of marine park impact is sufficient to justify the establishment of a VFAS for a given fishery). The WG members agree that policy and procedural work should be invested in the preparation of these guiding documents to support the work of the Committee of Management, whilst not constraining their independence.

When establishing a VFAS scheme prior to a marine park being implemented, government should give early consideration to the scope of eligible licences, particularly in cases where a commercial fishing operator holds entitlement / licences for a fishery that is both inside and outside of the marine park and the remaining operation (outside the marine park) may no longer be viable as a stand-alone business.

In these cases, the surrender of licences held outside the marine park should also be considered, in recognition of the full business impact experienced.

Current FRICMA arrangements

FRICMA provides guidance around who can apply for compensation, noting it is a legal right arising from the legislation. The key features include:

- Eligibility is based on ownership: Only the holder of the licence at the time of the gazettal of the marine park zoning scheme by the Department of Biodiversity, Conservation and Attractions (DBCA) is the person who can apply for compensation (even if the licence has since been transferred).
- Leased licences are excluded: There is no provision for compensation to fishers who lease licences or entitlement, i.e. only the fishers who own the licence/entitlement are eligible for compensation.
- Application is required: Fishers must actively apply to be considered for compensation; it is not an automatic process. Thus, there is an administrative action required on the part of the fisher.

What would improvements look like in practice under the FRICMA?

- DPIRD's administrative processes should be improved to ensure that all relevant holders of the licence at the time of the gazettal of the zoning scheme by DBCA are proactively contacted by DPIRD to ensure that they are made aware of their right to apply.
- In cases when there is a delay between gazettal and the opening of a compensation scheme, DPIRD should undertake to provide regular updates to impacted fishers until the process is complete.
- Consideration should be given to alternative support mechanisms for fishers who lease licences or entitlement, recognising their operational dependence and exposure to loss. This may include grant based support programs or other transition assistance measures.

Future legislative reform - FRICMA

The WG recommends considering reforms to broaden the scope of what type of loss can be compensated under FRICMA (beyond loss in market value). Currently, compensation is restricted to loss in market value, which presents several challenges:

- Determining genuine market value is difficult, especially in small scale or niche fisheries within limited transaction data.
- In practice, losses may extend beyond a loss in market value, including operational viability, community impact, or supply chain disruption.
- A more meaningful and direct measure in some cases may be loss of fishing area or foregone profit.

These issues point to the need for modernisation of the FRICMA framework, including stronger alignment with real-world business impacts and a wider lens on what constitutes compensable loss.

FRDC Report Principle 3: Appropriately timed

“A compensation process is triggered once a relevant pre-specified event is anticipated and/or has occurred. This process must then meet its objectives efficiently and in a timely fashion to minimise uncertainty and distress for industry”.

Compensation Working Group: Agree

Current VFAS arrangements

Government may announce the establishment of a VFAS at any time, as there is no legislative trigger or mandatory timing requirement.

WAFIC or industry representatives can also request the establishment of a VFAS at any time.

Previous examples of government announcing a quantum of funding when opening a scheme have created unrealistic expectations and should be reconsidered.

The FAS Act and FRICMA complement each other and acknowledge that in some instances a VFAS may occur before the FRICMA process. The outcome of a voluntary buy-out scheme may increase the market value of remaining licences, potentially offsetting losses in market value arising from marine park impacts. In these cases, no compensation is payable under FRICMA, given no net loss in market value.

What would improvements look like in practice in a VFAS?

Government should proactively consider when a VFAS would be beneficial for the commercial fishing sector, and in particular consider the benefits to Government and industry of running a VFAS before the FRICMA process. Industry requests for a VFAS should not be a necessary pre-cursor for government action.

Development of transparent guidelines or policy documents outlining pre-defined triggers or criteria for the establishment of a VFAS would improve clarity and predictability for industry.

Early and clear communication with affected fishers is critical. Fishers holding licences or entitlements within the scope of the VFAS must be informed as early as possible that a scheme is being considered or supported by Government providing adequate time to assess options and prepare.

Government should refrain from identifying a quantum of funding available for compensation at the beginning of a scheme.

Current FRICMA arrangements

FRICMA provides that a person is only eligible for compensation if they suffer a loss in the market value of their authorisation as a result of either:

- i. the reservation of an area of water as a marine park; or
- ii. the implementation of the zoning scheme under the marine park management plan (by DBCA).

These are termed *relevant events* under FRICMA.

The practical trigger for compensation claims is the gazettal of zoning, which legislates the formal spatial boundaries of the zones where fishing activities are restricted (the second relevant event).

Section 6 of FRICMA specifies that the Minister must, as soon as practicable after the zoning gazettal (relevant event), publish a notice which indicates that the zoning has occurred, informing affected persons of their right to apply for compensation.

DPIRD acknowledges that there has been a delay in offering compensation following the gazettal of the zoning for the Camden Sound and Horizontal Falls marine parks in the Kimberley, and these delays have caused significant distress for some commercial fishers who have already lost access to key fishing grounds.

At the time, a Government decision was made, with agreement from WAFIC, to consolidate the compensation process across multiple parks in the Kimberley region. This approach was considered more practical in terms of administrative efficiency and consistency, given the complexity of determining impacts across overlapping areas.

Many commercial fishers operate in more than one of the Kimberley marine parks, and in some cases across all of them. Measuring the loss in market value for each park in isolation would have been challenging. It was also recognised that requiring affected fishers to go through multiple compensation processes in sequence could lead to unnecessary emotional strain, legal expense and mental health impacts. Given how taxing these processes are, it was thought to be cleaner, fairer and more efficient to undertake a single, consolidated compensation process.

However, in hindsight, this decision has had significant unintended consequences. The delays have far exceeded initial expectations and the process remains unresolved, leaving some fishers in limbo for many years.

What would improvements look like in practice under FRICMA?

Compensation processes under FRICMA should commence as close as possible to the gazettal of zoning by DBCA to reduce uncertainty, angst, frustration and financial stress for commercial fishers who have lost their fishing grounds.

Delays in offering the compensation scheme also creates challenges in obtaining timely and relevant information to substantiate changes in market value or other proxy information.

Government and administering agencies must prioritise efficient resourcing and clear communication during these processes.

Future legislative reform - FRIMCA

It is acknowledged that fishers may suffer a loss in market value of their licences upon government announcements that a marine park is planned for an area, and again when the marine park boundary is introduced.

Currently, 'intention' or announcement from government to plan a marine park (for example a government media statement announcing the commencement of a marine park planning process) is not considered within the current scope of the FRIMCA as a relevant event but could be given further consideration. This would better reflect the reality of market responses and provide fishers with earlier certainty and support, reducing prolonged periods of uncertainty and financial distress.

FRDC Report Principle 4: Suitably planned and resourced

"Schemes are accurately researched, planned, budgeted and resourced to ensure that an appropriate approach is used (e.g. is a compulsory or voluntary scheme required) and that the objectives are clearly defined and achievable".

Compensation Working Group: Agree

What would this look like in practice in a VFAS?

The WG agrees that the objectives for a VFAS should be clearly defined and communicated from the outset. If there is a specific quantum of catch (or effort) that the Government seeks to have surrendered, this should be specified clearly in communication materials as early as possible, so fishers are aware and fully informed before deciding whether to participate.

The FRDC report highlights the lack of guidance or clear policy regarding when schemes are warranted or not warranted, and recommends additional guidelines on committee structure, committee directions and consultation requirements.

WG members agree that policy and procedural work should be invested in the preparation of these guiding documents to support the work of DPIRD staff and the Committee of Management.

What would this look like in practice under the FRICMA?

The relevant events which trigger the FRICMA process are actions taken by DBCA, which creates some difficulty given the lack of control by DPIRD in relation to timing. Frequent and open communication between DBCA and DPIRD is required to mitigate this issue.

It is noted that the statement of a 'scheme objective' is not relevant to FRICMA as this is prescribed by the legislation.

Planning and engagement with affected fishers, particularly regarding consulting and informing them of valuation methodologies before the commencement of the FRICMA processes remains important and a useful investment of time. Such preparation would help to mitigate the risk of an appeals process to the State Administrative Tribunal (SAT), which is burdensome and costly for both fishers and Government.

Government should give due consideration to running a VFAS before a FRICMA process, as a well-planned VFAS may reduce the need for compensation under FRICMA.

FRDC Report Principle 5: Consultative and collaborative

"A compensation scheme is designed and delivered in a consultative fashion and informed and supported by industry".

Compensation Working Group: Agree

What would this look like in practice in a VFAS?

WAFIC, as the peak representative body for commercial fishers in WA, is the appropriate industry body to support compensation processes on behalf of the sector. Relying on individual fishers to provide industry leadership or advocacy creates inconsistent representation and adds undue burden to fishers. In some cases, this role could also be taken on by subsidiary groups such as the Abalone Association, depending on which fisheries are being considered for a VFAS.

WAFIC should be actively engaged at all stages, including:

- proving advice on whether a VFAS is warranted;
- providing advice on the potential scope and parameters of any VFAS;
- providing input on timing and sequencing of schemes; and
- reviewing and co-designing valuation methodologies.

Providing opportunity for impacted fishers to be consulted in relation to valuation methodologies, prior to schemes being open for applications, would lead to better outcomes and up-take of schemes. Once valuation methodologies are agreed, they should be communicated transparently and simply to potential applicants when the scheme is announced. This could take the form of easily accessible factsheets or guidance materials. Fishers would be encouraged to use this as the basis for valuing their offers, rather than seeking valuations from consultants who may use their own methodologies and result in widely divergent valuations between fishers and Government. The Committee of Management for a VFAS should also be provided with the opportunity to review and provide input on proposed valuation methodologies prior to scheme rollout. This strengthens both procedural fairness and outcomes.

What would this look like in practice under the FRICMA?

Similarly, under FRICMA, early and meaningful engagement with impacted fishers regarding valuation methodology is essential. Pre-agreement and transparent communication of valuation approaches prior to the application periods can reduce misunderstandings, improve uptake, and importantly, reduce appeals, or challenges through the SAT.

The existing DPIRD paper, *Principles to be applied when seeking and assessing application for compensation under the FRICMA* (DPIRD, 2020), and other DPIRD supporting policy should be reviewed and updated regularly in consultation with industry prior to commencing any FRICMA compensation process.

FRDC Report Principle 6: Delivers value for money

"A compensation process should achieve value for money while meeting scheme objectives and compensation principles".

Compensation Working Group: Agree

Current VFAS arrangements

In a VFAS, the amount paid is determined by mutual agreement between Government and the fisher. Government needs to be satisfied that the offer is a worthwhile use of public funds and the price justifiable in order for it to go ahead. If agreement cannot be reached, no payment is made, and the parties walk away.

What would this look like in practice in a VFAS?

The WG is providing advice regarding valuation methodologies recommended in the FRDC report in part 2 of this paper and supports their review. Key considerations include:

- **Consistent and transparent valuation inputs:** Compensation valuation estimates for entitlements should use the same beach prices used for Gross Value of Production (GVP) and access fee calculations unless a legitimate case exists for alternative value (e.g. where a licence holder demonstrably has a unique market).
- **Market value as the foundation:** Offers should be grounded in evidence-based market valuations to ensure fairness and dependability. Unrealised, proposed or speculative value-adding activities for fish products will not be factored into Government valuations. If a particular fisher is seeking a higher price for catch as the basis for compensation, this must be supported by robust and verifiable evidence.
- **Balancing fairness and cost-efficiency:** Value for money is not about driving down payments but ensuring fair compensation at a justifiable cost to the public.
- **Recognition of involuntary impact:** While VFAS participation is voluntary, the introduction of the marine park itself is in many cases imposed on fishers and has an 'involuntary' component to it. In recognition of this, the WG supports inclusion of a solatium payment being made, which is consistent with other compensation schemes/jurisdictions. A solatium payment is an additional percentage recognising disruption and inconvenience.
- **Administrative cost efficiency:** Transparent processes, clear valuation frameworks and early disclosure of methodology help avoid protracted disputes and the associated expense of appeals.

What would this look like in practice under the FRICMA?

The WG views regarding valuation methodologies are provided in part two of this paper, but generally speaking, support their review.

Under FRICMA, valuations should follow the same principles of market value, transparency and fairness as a VFAS. Consideration of a solatium payment could improve fairness and acceptance of offers, potentially reducing the number of SAT appeals. The SAT appeals process results in significant legal and administrative costs to Government, which could be argued is not an optimal use of public funds.

Future legislative reform

To improve clarity, certainty and acceptance of outcomes, Government could consider legislating for a maximum solatium percentage to be payable as part of FRICMA, in a similar manner to the *Victorian Fisheries Act*, and the *WA Land Administration Act*. This may result in higher acceptance of outcomes and less costs to Government.

FRDC Report Principle 7: Process Transparency

“Compensation methods, assumptions and decisions are always clearly communicated.”

Compensation Working Group: Agree

What would this look like in practice in a VFAS?

Prior to the opening of a VFAS, fishers should be provided with clear information which outlines the valuation methodology that Government will use for assessing offers. This methodology should be able to be applied by fishers to their business and allow them to apply the formula (i.e. it does not require the use of, or expertise in economic models).

Decisions will be clearly communicated to applicants in writing. The confidentiality of fishers needs to also be preserved, which limits the ability to provide public information regarding the outcome of VFAS schemes, but Government could consider publishing the total quantity of licences / entitlement purchased, and the total cost to government.

The Compensation Working Group is also considering communications planning and new initiatives identified as part of this could be applied to future schemes. Fishers are invited to provide advice as to how best they would like to be contacted and engaged with.

What would this look like in practice under the FRICMA?

Early communication with fishers on processes, timeframes and valuation methodologies.

If a VFAS is being run before a FRICMA, it is important that fishers understand that the level of uptake of the VFAS (if high) may impact on the FRICMA amount paid. Fishers have expressed a desire for Government to provide modelling to understand the specific figures, however this is challenging for Government to provide.

Part 2: Valuation methodologies

Formula based approach for acquisition schemes (i.e. VFAS)

FRDC Report Recommendation:

“There is significant merit in using a compensation formula-based approach for the purpose of **acquisition schemes**.” (pg. 75)

“Compensation = MVL + PAP + AIP + SP” (pg. 75 / 76)

MVL= market value of a licence

PAP = profit adjustment payment

AIP = Asset impact payment

SP = Solatium payment

Compensation Working Group:

Application to a VFAS

A VFAS scheme is an acquisition scheme under which the Government purchases and then cancels licences or entitlements (i.e. the licence or entitlement is brought by Government then surrendered). In this context, a formula-based approach provides clarity and certainty. Therefore, the WG considers the relevant formula from the report for consideration in this instance would be:

Compensation = Market Value of Licence (MVL) + Profit Adjustment Payment (PAP) + Asset Impact Payment (AIP) + Solatium (SP)

Each of these components of the formula are discussed at a high level below, then explored in more detail in subsequent sections below.

Market Value of Licence (MVL)

This is the estimated price a licence or entitlement could reasonably achieve in an open sale. In high-volume fisheries such as rock lobster, there is an active and transparent market, making MVL a reliable measure. However, in many South Coast fisheries, licence transfers are infrequent and market prices are not publicly reported. Where there is no reliable sales data, reliance on MVL alone risks undervaluing the true worth of the entitlement. Where gaps exist, alternative measures (such as carefully designed GVP proxies or evidence from fishers themselves) should be used transparently.

Profit Adjustment Payment (PAP)

The PAP is designed to adjust compensation to reflect the level of profitability associated with a licence. Fishers do not all operate in the same way. Some achieve higher returns through unique markets, value-adding or vertical integration, while others may fish more actively in effort-controlled fisheries. Thus, two identical licences can have very different economic outcomes depending on fishing effort, efficiency and business decisions.

Including PAP provides a mechanism to recognise the commercial performance of the licence in practice. In effort-controlled fisheries this provides a more equitable outcome between fishers who actively and profitably operate their licence and those who do not.

Careful design is required to avoid unintended consequences. For example:

- Using too broad an averaging period may dilute recent investment or changes in fishing practices.
- Incomplete or inconsistent data sources (e.g. where catch records or verified sales are missing) can undermine credibility.

The WG is considering how PAP can be applied using fair reference periods and reliable data sources (such as logbook data, verified catch history, or financial accounts where appropriate).

Asset Impact Payment (AIP)

The AIP is intended to capture broader asset impacts that extend beyond the licence itself. Some fishers operate vertically integrated businesses, combining fishing with processing, transport or marketing operations. When large numbers of licences are surrendered, vessels and gear may flood the market, depressing the resale values. Ignoring this leaves fishers carrying hidden losses. AIP is designed to recognise that reality - especially where vessels or equipment cannot be readily repurposed, or where vertically integrated businesses experience asset losses.

Solatium Payment (SP)

Fishing is not just a business – it is family, community and identity. Solatium acknowledges the non-financial harm of displacement and is an additional payment intended to recognise intangible and non-economic harms such as stress, disruption and loss of community that are not captured in licence value or profit metrics. While solatium has not yet been used in WA fisheries, similar compensation frameworks in land acquisition contexts have included solatium. For example:

- In Victoria, it is legislated as up to 10% of market value, taking into account factors like inconvenience, length of residence, and personal impact.
- In NSW, a similar approach is applied, with maximum solatium amounts published by the Minister.

Because WA fisheries face real stress and livelihood disruption from displacement, the WG considers inclusion of a meaningful solatium component would represent a significant shift towards recognising the human dimension of adjustment processes.

Formula based approach

The benefit of a formula based approach include:

- **Simplicity:** The formula is relatively simple, easy to understand and apply and does not rely on complex economic modeling to generate the values.
- **Transparency:** A formula can be published early in the process and be made publicly available with explanation of components and examples of calculations.
- **Consistency:** All applications are assessed against the same framework, reducing perceptions of inequity.

The WG has attempted to apply this formula to the types of fisheries being considered for a VFAS in the Kimberley and South Coast to gain insights into their outcomes for different fishers (example case studies will be provided separately).

Recommendation 1: There is significant merit in adopting a formula-based approach to calculating compensation under VFAS, to provide clarity, transparency and consistency.

Recommendation 2: An overarching guiding formula for the purpose of a VFAS could be based on 'Compensation = MVL + PAP + AIP + SP'

Recommendation 3: Government should provide the guiding formula early in the VFAS process along with explanatory materials, to enable licence holders eligible for surrendering licences or entitlement to make informed decisions. The components of the formula should be relatively simple and not require economic models to determine.

‘market value of a licence’ component

FRDC Report recommendations:

‘Market value of a licence’ (MVL) – determined by a separate entity such as the Valuer General (which in WA is Landgate), the Department of Treasury (as the WA government’s main economic advisor) or Department of Finance (as a main administrator of grant and subsidy schemes).” (McLeod 2024) pg. 75.

“Determination of the market value of a licence has been shown to be a key challenge. The use of market-based methods that use information about recent trades should be prioritized over all other methods... there is a need to change current reporting requirements and/or data capturing processes associated with trades in fisheries rights to make this option more readily available for compensation processes in WA.” (McLeod 2024) pg. 76.

The FRDC report also provides a decision logic for licence valuation method (Figure 9, pg. 76), and notes “there is likely an important role for proxy indicators of fishing right market value, especially for small-scale fisheries. However, without detailed discussions and evidence the application of GVP multipliers appears arbitrary.”

Compensation Working Group commentary:

Current situation in WA - Preferential use of market value data

Market value is often described as the ‘cleanest’ measure of an authorisation’s worth. The market value of a licence seeks to reflect the underlying ‘trading base’ value of a licence or units of entitlement.

The current DPIRD policy is that where it is possible to determine the market value of an authorisation before and after a marine park relevant event then these should be used preferentially as the basis for any compensation (DPIRD, 2020).

The WG also agrees that if robust market value information is available, then this should be used for the MVL component of the compensation formula, rather than using a proxy measure.

Current situation in WA - Market value data gaps and limitations

In many smaller scale fisheries in WA there is a limited number of transfers of licences, and for those that are traded, often DPIRD is not provided with the sales prices. This

creates a significant data / knowledge gap which makes accurate estimates of market value at different points in time difficult to know.

Additional challenges include:

- Previous communications with the Valuer General in WA have indicated that they are not likely to be able to provide determinations of market value, as the databases of stamp duty records do not separate out fishing licence transactions from other types of sales.
- to know market value, it needs to be a 'robust' market – one or two market sales is not representative.
- Licence sales often bundle other assets (e.g. boats, quota, equipment), making it difficult to isolate the value of the licence itself.

Current situation in WA - Proxies for market value

In the absence of robust market values, DPIRD has historically used the GVP of a fishery as a proxy for this value.

In determining the GVP for a fishery for a particular financial year, this is based off the same methodology which is used for the public reporting of fishery value, and in determining the fishery access fees. The GVP calculation uses the catch (reported by fisher on statutory returns) multiplied by the beach price for the fish species.

Acknowledging that there are fluctuations in catch and prices between years, historically an average annual GVP has been determined based off several years of data. In determining this average, it is possible to select the best years (for example the best 5 years in the prior 10 years, or the best 7 years in the prior 10), to provide fishers with a higher average figure.

Current situation in WA - licence types with no known market value or proxy

In some instances, there is no known market value of a licence, and GVP / catch proxies are also not available (for example, Marine Aquarium licences, Specimen Shell licences, and Fishing Boat Licences). Historically in cases such as these a 'flat' payment has been made to fishers. For example, in previous VFAS schemes the Department has paid \$5,040 for the surrender of a Fishing Boat Licence, noting they have low market value and no 'open access' fisheries of substance remain (DPIRD, 2020).

DPIRD (DPIRD, 2020) has also previously communicated that;

- Commercial Fishing Licences (held by an individual) have no market value as they are unlimited in number and cannot be traded, so these are not eligible for compensation or surrender;

- Fish Processing Licences have nil market value since they are unlimited in number, and processors can diversify the fish species that they process as part of their operation.

What would improvements look like in practice in a VFAS

The FRDC report and the WG acknowledge the difficulties that the lack of data on market values for WA fishing licences and entitlement creates. To help address this data gap, several practical improvements could be considered:

- Voluntary provision of sales contracts by fishers to help provide evidence of their market value and strengthen the evidence base.
- DPIRD and WAFIC should consider how (via policy or regulation) reporting requirements could be updated to make this information more available to support compensation processes.
- Data rich fishery analysis: the FRDC report suggests there would be value in undertaking analysis of a data rich fishery, where known market values for licences can be compared to fishery GVP figures, to try and determine a relationship or evidence-based multiplier between the two values.
- Similarly, it is possible that if the price of leasing units or licences in a fishery was known, this could support proxy estimates of the market value of a licences or entitlement.

Whilst attempts have been made to undertake this analysis by the DPIRD members of the WG, the lack of available data has made it a difficult exercise and it has been challenging to determine an evidence-based multipliers.

Consistent with process principles around equity, where possible consistent estimates of market values (or proxy measures) should be used across fisheries with similar management arrangements, and across adjustment (VFAS) and compensation (FRICMA) processes. However, there is a relatively high level of uniqueness to fishery management arrangements, and each fishery will likely have different data availability, so potentially formulas will vary across fisheries to account for this.

There is benefit in DPIRD communicating any relevant 'flat' payments (applicable when neither market value nor GVP information is available) before the commencement of a VFAS or FRICMA scheme.

The WG has prepared some case studies to show how GVP can be used as a proxy for the 'market value' in valuations, depending on the management arrangements for the fishery.

Recommendations – Market Value of a Licence

Recommendation 4: If robust market value information is available, then this should be used for the MVL (market value of a licence) component of the compensation formula.

Recommendation 5: DPIRD and WAFIC should actively seek to address the current data gaps by seeking access to information regarding market sales of licences and entitlements.

Recommendation 6: In the absence of robust market data, a proxy value based on fishery GVP should be used.

Recommendation 7: Government should communicate any relevant 'flat' payments (applicable when neither market value nor GVP information is available) before the commencement of a VFAS or FRICMA scheme.

Recommendation 8: Consistent valuation methods (market values, proxy measures or flat payment) should be applied across fisheries with similar management arrangements, and across both adjustment (VFAS) and compensation (FRICMA) processes.

Profit adjustment payment component (see page 75)

FRDC Report recommendation

“Profit adjustment payment (PAP) – determined using the historical annual GVP (as an indicator of profit) earned against a licence for a pre-defined period (determined in consultation with industry) and taking the average annual GVP of a set number of the highest revenue years for a given licence in that pre-defined period and multiplying by a factor (to be determined in consultation with industry)” (pg. 75, (McLeod 2024))

Compensation Working Group commentary:

The Compensation Working Group acknowledges that licences of the same type can generate different incomes in practice with some fishers able to achieve higher prices for their catch than others. This could be because of additional value adding or processing, or through the development of a unique market that the fisher has cultivated. In addition, in fisheries where the management arrangements limit effort (rather than catch) some fishers have been more active than others, and this may require consideration in determining compensation. Conversely, in fisheries that have transferable catch quotas, the value of a unit of entitlement should be treated consistently whether the owner has fished it themselves or leased it to another operator.

The WG acknowledges that accounting records kept for tax purposes may be constructed to minimise profit on paper and are therefore unlikely to be a good source of information to understand fisher profitability. DPIRD is not privy to fishers costs, which makes it difficult to determine the true profit margin a fisher may be making in their operation.

Therefore, whilst the FRDC report refers to determining ‘profit’ earned against a licence, in practice *gross income* (based of catch multiplied by beach price) is used as the basis for understanding the varying activity levels of individuals within a fishery. In non-fishing contexts, compensation is usually isolated to the profit component, not (gross) income.

Current situation - VFAS

In the past, some fishers have been able to provide evidence of their unique processing or market arrangements and this has resulted in a higher beach price being used in determining their entitlement to compensation.

What would improvements look like in practice in a VFAS?

Consideration of unique markets or prices obtained

Where a fisher can provide clear evidence of higher beach prices obtained due to special value-add processes or market development unique to them, then using a higher beach price in the adjustment calculation for that licence holder should be considered.

Adequate evidence of the higher beach price would need to be provided by the fisher to substantiate their claims, and administrative mechanisms would need to be provided for this special consideration.

Method for determining a payment to reflect individual licence activity level

In determining a 'profit adjustment payment' component for input-controlled fisheries, different reference years within a specified period (for example within the prior 10 years) could be chosen for individual fishers so that each individual fisher's best fishing years are used as the basis for valuing of the licence.

This would mean that fishers individual circumstances (for example if they did not fish for a year due to illness or other personal reason, or if the fishery lost their market during COVID) these low years are omitted from the average, and they do not negatively impact the calculation of their individual average.

An example of the application of a 'profit adjustment payment' within an input-controlled fishery has been provided in the supporting case studies for this paper, and is based on the average individual income of each fisher (using an average of the best five years for that fisher within the prior 10 years).

For quota-based fisheries, PAP should apply a consistent per-unit amount across all entitlement holders, noting that each unit limits the activity of the fisher, therefore individual activity level is less relevant.

Recommendations – Profit Adjustment Payment

Recommendation 9: Where evidence supports it, higher beach prices obtained through unique markets or value-adding should be recognised in PAP calculations.

Recommendation 10: For input-controlled fisheries, PAP should be based on the fisher's best five or seven years within the past 10, to reflect genuine activity without penalising exceptional circumstances.

Recommendation 11: For unitised fisheries, PAP should be applied at a consistent per-unit rate to all entitlement holders.

Recommendation 12: The PAP methodology, including worked examples, should be published early in the process to provide clarity and certainty to licence holders.

Asset Impacts Payment component

FRDC Report recommendation

“Assets impacts payment (AIP) - To reflect the financial loss suffered through a decline in the value of other assets, which may be set at fixed amount or determined by the external valuer used for the determination of right market value.” (McLeod 2024) page 75)

Current situation – VFAS

Historically, WA VFAS have not included a structured approach to compensating for reduced asset values. Fishers have largely been left to manage resale or repurposing of their assets on their own.

Compensation Working Group commentary:

What types of assets might be within scope for this consideration?

In considering what types of tangible assets this provision could apply to, the assets most closely connected to the fishing operation are thought to be the fishing vessel and any fishing gear. There may also be other (less specific) secondary assets which are also used as part of a fishing business (for example buildings, fish processing and storage equipment, vehicles, trailers, computers etc.). These secondary assets are likely more transferable to other uses and unlikely to suffer a loss in market value due to the surrender of a fishing licence.

Purchase of boats or fishing gear by government

Section 15A of the FAS Act provides a mechanism for the Minister for Fisheries to enter into an agreement to purchase a person’s fishing boat or fishing gear as part of either a voluntary or compulsory adjustment scheme. The Minister may then subsequently sell or otherwise dispose of the boat or gear. In practice this option under the legislation has rarely been used (if ever).

Some assets which support a fishing operation may be able to be used in another context. For example a commercially surveyed fishing vessel may be able to be used as a platform for commercial research, or for tourism purposes, therefore the surrender of the fishing authorisations may not always leave an asset obsolete. It was noted that in other

jurisdictions (i.e. Queensland, United Kingdom) Governments have established separate funds for the purchase of assets or grants to allow the transition of assets to another use.

The WG is not aware of any appetite or justification for the purchase of tangible assets (fishing boats and / or fishing gear) by Government as part of a VFAS scheme for the Kimberley and South Coast Marine Parks.

Compensating for loss of market value of tangible assets

It is acknowledged that if many fishing licences are surrendered at the same time, this may result in an increased number of boats / and or gear being placed on the market, which will likely result in them having reduced market value, and consideration of compensation as a result may be relevant.

What would this look like in practice in a VFAS?

- **Full vs partial surrender:** The payment of any asset impact component of compensation is more likely applicable for compulsory acquisition schemes, and/or in circumstances when the full licence and/or entitlement is being surrendered. If a fisher is surrendering only part of their entitlement, it is not likely to be justified.
- **Evidence-based assessment:** Fishers would need to provide information on their intentions in regards to the re-purposing or sale of their vessel and gear should they surrender in full their fishing licences and entitlement as part of a VFAS for the Kimberley and or South Coast. This information would assist in determining whether there is likely to be a significant increase in the supply of fishing vessels or gear onto the market following the completion of the VFAS.
- **Vertically integrated businesses:** Any consideration of inclusion of an asset impact payment as part of an adjustment scheme should be considered on a case by case basis, and for assets that go beyond fishing boats and gear may be primarily applicable to vertically integrated business. If there is government support for an asset impact payment then clear information and criteria for when it would be considered, how a person could apply and what type of evidence an applicant would need to provide before the scheme is opened.
- **Valuation methods:** The FRDC report notes that asset valuation could be undertaken through either:
 - External independent valuation: This provides a tailored, case-specific assessment of vessel and gear value, but can be time-consuming and administratively complex.
 - Fixed compensation rates: These can provide greater certainty and speed, but risk under or over estimating value if the rates are set without sufficient industry input or current market evidence.

The WG is of the view that either method could be valid, provided that:

- the approach is communicated clearly at the outset of the scheme,
- fishers have the opportunity to comment on the proposed method before it is finalised, and
- whichever option is chosen, it should be applied consistently across eligible applicants to ensure fairness.

Recommendations – Asset Impact Payment

Recommendation 13: AIP should be considered where full surrender of licences is likely to result in a significant volume of vessels/gear entering the market, reducing asset values.

Recommendation 14: Feedback from fishers should inform whether asset repurposing or resale is intended, or whether specific support measures (e.g. scrapping schemes, transition grants) would be more appropriate.

Recommendation 15: Eligibility for AIP should be clearly defined in advance, with simple application processes and evidence requirements.

Recommendation 16: Consideration of AIP should extend to vertically integrated businesses where asset value loss extends beyond boats and gear.

Recommendation 17: Valuation methods should be transparent and communicated upfront, whether via independent valuations or fixed compensation rates.

Solatum payment

FRDC report recommendation

“solatium payment (SP) – primarily for the purpose of compulsory schemes, a solatium should be provided in recognition of the unwillingness of rights holder to forfeit their right at market value. While a solatium could be separately specified, an appropriately set profit adjustment can implicit capture a solatium. (McLeod 2024) page 75.

Compensation Working Group:

Solatium payments are common in compensation schemes where there is a compulsory element in the scheme.

This payment is intended as solace or consolation for the emotional and intangible losses suffered when land is taken, beyond quantifiable market or economic losses.

The FRDC report cites examples of solatium payments used elsewhere or in other contexts including;

- Victoria’s *Fisheries Act 1995* provides for a solatium (or payment of grace) of up to 10% of the combined compensation amounts;
- WA’s *Land Administration Act 1997* allows for payments of up to 10% to be made over and above the market-based property value for land acquisitions;
- Under the *Swedish Expropriation Act 1972*, compulsory compensation payments must reflect the market value of the property being acquired as well as a further ‘increment’ of 25% of market value (McLeod 2024).

Where solatium’s are operating, legislation typically sets a solatium cap. For example in Victoria and WA, the cap is 10% of the market value of the property acquired.

In WA, exceptional circumstances can justify higher payments, but in practice, the 10% ceiling is generally maintained.

Legislated solatium’s most commonly arise in land acquisition and can be for both compulsory and voluntary acquisition.

In recognition that schemes for acquiring fishing rights are compulsory or effectively compulsory in nature, solatium payments have been embedded in the compensation formula recommended within the FRDC report.

The incorporation of a solatium payment is one of the key recommendations and themes within the FRDC report, and application in future WA compensation or adjustment schemes is supported by the members of the W G.

What would this look like in practice in a VFAS?

Incorporation of a solatium payment acknowledges the stress, disruption and uncertainty fishers experience when losing access to fishing grounds – impacts that extend to families, staff and regional communities. It can also improve the likelihood of VFAS offers being accepted by both parties, and can go some way to acknowledge the involuntary nature of a marine park (or industrial development) impacting the existing operations of commercial fishers.

A solatium payment should be calculated as a proportion of the combined market value and profit adjustment payment components. It should not apply to any asset impact payment component.

Recommendations – Solatium

Recommendation 18: Solatium payments should be included in future WA compensation and adjustment schemes, consistent with national and international practice.

Recommendation 19: A solatium should be calculated based off the combined amounts of a market value component plus a profit adjustment payment. There should be no solatium paid on any asset impact payment component.

Recommendation 20: The rate of solatium should be clearly defined and communicated upfront, with fishers given certainty about eligibility and calculation.

Recommendation 21: Government should undertake further consultation with the fishing industry to determine an appropriate solatium percentage.

FRDC report recommendation – formula for compensation for impact (i.e. FRICMA)

At a high level a **compensation for ‘impact’** scheme should incorporate the following elements: ‘compensation for foregone profit’ and ‘solatium’ payment (pg. 77 /78)

“Compensation for foregone profit – determined based on assumptions about how future catches will be impacted by the proposed change and assumptions about future prices and profitability, all of which often utilizes information on historical catches, beach prices and profits to predict future performance. Key factors include:

- a. How will catches be impacted? (taking into account mobility of targeted stocks)
- b. Will there be greater competition between vessels in a more restricted fishing area?
- c. How will productivity of stock be impacted, and thus catch rates?
- d. How will operating conditions and costs be affected (e.g. will vessels no have to travel further)?” (McLeod 2024)

Compensation Working Group

FRICMA is the WA example of a ‘compensation for impact’ scheme, in that fishers can be compensated for the negative impact arising from the establishment of a marine park.

Current situation under FRICMA

At present, the FRICMA legislation specifies that the only loss that is relevant for compensation is loss in market value of a licence or entitlement.

In practice, when market value information is not known, DPIRD has historically used analysis based on expected lost catch as a result of the marine park zoning scheme (with multipliers applied) to provide a proxy for market value.

More detail around how these calculations have been applied in the past is contained in the DPIRD paper released in 2020, entitled “*Principles to be applied when seeking and assessing application for compensation under the FRICMA*”.

Alternative formula recommended in FRDC report

The FRDC report recommends a broader compensation formula under FRICMA:

Compensation = Foregone profit + Solatium (pp 77).

These elements are considered further below.

‘Compensation for foregone profit’

The FRDC identifies four factors relevant to determining ‘impacts on foregone profit’. In WA, only the first (impacts on catch, adjusted for mobility) has historically been considered. In addition, the payment calculation has not been limited only to ‘forgone profit’ but more broadly applied to ‘forgone income’ (catch x price) as a result of the marine park zoning scheme.

The WG acknowledges that financial impacts on fishers arising from a marine park do have additional negative impacts, such as the increased competition between fishers, possible reduced catch rates and higher operational costs such as increased travel time. In practice, quantifying these for individual fishers would be difficult. A multiplier on lost catch could be an alternative way to provide additional compensation to cover some of these additional impacts. Zone

‘Solatium’ payment

At present FRICMA does not legislatively require the payment of a solatium, however the WG is of the view this would be fair to include and may help generate a higher level of acceptance of FRICMA payments.

Future legislative reform - FRICMA

Market value loss vs loss in catch or income

The FRDC report suggests legislative change could be considered to compensate for *foregone income* as a result of the impact (i.e. the marine park), rather than impacts on market value.

- This approach would be more direct and transparent.
- It avoids relying on limited or unreliable market value data.
- It better reflects the real financial losses of fishers.

Solatium payment

Consideration could be given to legislating for a maximum solatium percentage to be payable as part of FRICMA, in a similar manner to the Victorian fisheries legislation, and the WA Land Administration Act. This may result in high acceptance of outcomes and less costs to government and impacted fishers associated with a SAT appeal process.

Consideration of legislative link between VFAS outcomes and FRICMA compensation

FRICMA specifically contemplates that a VFAS may occur before FRICMA compensation is paid, and that any compensation payment under FRICMA needs to consider any increase in market value of a licence which may result from the VFAS.

This creates another element of uncertainty for fishers and potentially makes their deliberations harder when faced with the decision of whether to surrender licences via a VFAS or wait for compensation under FRICMA. In addition for input-controlled fisheries (for example where the number of boats or amount of gear they are able to use is set in the fishery management plan, and also limited by operational considerations) they may not have much capacity to increase their catches and profitability once the size of the fishery is reduced. This requires fishery by fishery consideration in determining FRICMA payments.

Recommendations – FRICMA

Applicable to current processes (South Coast and Greater Kimberley Marine Parks)

Recommendation 22: Solatium should be incorporated into FRICMA compensation calculations.

Recommendation 23: Multipliers on lost catch could be used to better reflect indirect operational impacts arising from the marine park.

Recommendation 24: In determining FRICMA compensation, consideration of whether there is a genuine economic benefit (and ability to increase catches) to remaining fishers as a result of a VFAS needs to be made on a case by case basis.

Recommendations which would require legislative reform:

Recommendation 25: Government should consider legislating a maximum solatium payment under FRICMA.

Recommendation 26: Government should consider legislative reform to allow compensation for foregone income/profit, not just market value loss.

Recommendation 27: Shifting away from a market based analysis of loss arising from the implementation of a marine park, and removing the offset for any VFAS outcomes, could provide fisheries with greater certainty and help their decision making.

Summary of recommended formulas for valuations

After considering the issues outlined above, and practical application to the fisheries impacted by the Greater Kimberley and South Coast Marine Parks, the WG have identified the following proposed valuation formulas.

Recommendation 28: A VFAS formula for input-controlled fisheries impacted by Kimberley and South Coast marine parks where true market value is not known, should be:

$$\text{Compensation} = [(\text{Base value} \times 1.5) + \text{PAP}] + \text{Solatium}$$

Where Base value = average GVP for whole fishery for one year

PAP = individual fishers average GVP for one year

'market value proxy' = $[(\text{Base value} \times 1.5) + \text{PAP}]$

Recommendation 29: A VFAS formula for unitised fisheries impacted by Kimberley and South Coast marine parks where true market value is not known should be:

$$\text{Compensation} = [\text{Base value} \times 2.5] + \text{Solatium}$$

Where Base value = average GVP for whole fishery for 1 year

'market value proxy' = $[\text{Base value} \times 2.5]$

Recommendation 30: A FRICMA formula for input-controlled fisheries impacted by Kimberley and South Coast marine parks where true market value is not known, should be:

$$\text{Compensation} = [\text{'Market Value Proxy'} \times \% \text{ lost}] + [2x \text{ multiplier}] + \text{solatium}$$

The % lost figure represents the lost area of the fishing block proportional to the marine park sanctuary zone

The market value proxy would be calculated consistent with recommendation 28 above (i.e. $[(\text{Base value} \times 1.5) + \text{PAP}]$)

The additional multiplier is to account for increased operating costs post marine park.

Recommendation 31: Some fisheries have unique characteristics that may require individual consideration which deviates from the standard formula (i.e. Abalone due to sessile nature).

Additional issue for stakeholder feedback - associated licences or entitlement fished outside of marine park.

(note this was not specifically covered by FRDC report)

Compensation Working Group:

What would this look like in practice under the VFAS?

The Compensation Working Group acknowledges that some fishing businesses are made up of a combination of different licences and entitlements across multiple zones or fisheries. Collectively these provide a financially viable operation, and losing some components via a VFAS may mean that the remaining parts may not be sufficient to sustain a viable business. This issue is particularly applicable to fishers on the South Coast.

Where a licence holder holds entitlement in a fishery which has multiple zones, some of which are impacted by a new marine park(s) whilst other zones are not, consideration could be given to accepting surrender of units from zones outside of the marine park impacts (i.e. this would acknowledge those entitlements are linked to an operator's broader business viability). Note that the scope of any VFAS is based on recommendation of the committee of management, followed by a Ministerial decision. This option would not be available to licence holders who do not own units of entitlement within the zones impacted by the marine park.

- Example – Abalone: The Abalone Managed Fishery consists of multiple management areas with species specific total allowable catches within each management area. Areas 1, 2, 3 and 5 of the fishery are impacted by the South Coast Marine Park zoning, whereas Areas 6, 7 and 8 are not impacted by the South Coast Marine Park. Operators who hold entitlement in both impacted and non-impacted areas may find their remaining holdings uneconomic if they are only able to surrender impacted zones. Therefore, the scope of the VFAS could² extend to purchasing units in Areas 6, 7 and 8 when held by an operator who is seeking to surrender units in Areas 1, 2, 3 or 5.

² The scope of the VFAS remains subject to Ministerial consideration and approval.

- Example – South Coast Purse Seine: Zones 3 and 4 of the fishery are impacted by the zoning within the South Coast Marine Park, but licensees in this area may also hold permanent entitlement in Zones 1 and 2 of the fishery.

What would this look like in practice under the FRICMA?

This is not relevant to FRICMA, as compensation is confined to direct impacts on authorisations within the marine park boundaries.

Recommendation 32: In determining the scope of a VFAS for the South Coast Marine Park, in circumstances where a licence holder in an ‘eligible’ fishery holds entitlement in multiple zones (which are located both in the area of the marine park and outside of the marine park), Government should consider purchasing units from zones outside of the marine park also to ensure business viability.

Additional issue for stakeholder information – Tax implications

(note this was not specifically covered by an FRDC report recommendation, but a Victorian case study and associated tax ruling is referenced on page 30)

It was noted by the WG that the issue of tax liability / arrangements associated with any VFAS or FRICMA payment may require clarification.

- We understand that generally speaking compensation payments are treated as revenue for tax purposes, with some possibility that different elements of the payment may be subject to different tax considerations (i.e. solatium, asset purchases).
- For reference, rulings by the Australia Tax Office specific to fisheries include:
 - Port Phillip Bay Fisheries (Victoria) - ATO Class Ruling [CR2016/7](#), and
 - Gippsland Lakes Fisheries (Victoria) - ATO Class Ruling [CR2019/84](#).
- Fishers should be aware that their individual business structures and arrangements may affect their tax obligations.
- Fishers are strongly encouraged to consult a tax professionals to discuss their individual circumstances and business arrangements.

In order to support fishers WAFIC could consider seeking principle ruling from ATO on behalf of fishers.

There are existing government resources to provide fishers with free financial advice via [Rural Financial counselling service](#). Consideration could be given to expanding this to tax advice or other support that fishers identify as being of benefit.

Feedback is welcomed on the types of support fishers are seeking.

Summary of recommendations

The WG has considered the recommendations of the FRDC report and their application to WA fisheries. The WG recommends the following improvements to ensure fair, transparent and practical compensation outcomes under both the VFAS and FRICMA. The WG draft recommendations are summarised for stakeholder feedback, prior to submission to Government as follows:

Topic	WG Recommendation
Valuation Methodologies (overall approach)	<p>Recommendation 1: There is significant merit in adopting a formula-based approach to calculating compensation under VFAS, to provide clarity, transparency and consistency.</p> <p>Recommendation 2: An overarching guiding formula for the purpose of a VFAS could be based on 'Compensation = MVL + PAP + AIP + SP'</p> <p>Recommendation 3: Government should provide the guiding formula early in the VFAS process along with explanatory materials, to enable licence holders eligible for surrendering licences or entitlement to make informed decisions. The components of the formula should be relatively simple and not require economic models to determine.</p>
Market Value of Licence (MVL)	<p>Recommendation 4: If robust market value information is available, then this should be used for the MVL (market value of a licence) component of the compensation formula.</p> <p>Recommendation 5: DPIRD and WAFIC should actively seek to address the current data gaps by seeking access to information regarding market sales of licences and entitlements.</p> <p>Recommendation 6: In the absence of robust market data, a proxy value based on fishery GVP should be used.</p> <p>Recommendation 7: Government should communicate any relevant 'flat' payments (applicable when neither market value nor GVP information is available) before the commencement of a VFAS or FRICMA scheme.</p>

	<p>Recommendation 8: Consistent valuation methods (market values, proxy measures or flat payment) should be applied across fisheries with similar management arrangements, and across both adjustment (VFAS) and compensation (FRICMA) processes.</p>
Profit Adjustment Payment (PAP)	<p>Recommendation 9: Where evidence supports it, higher beach prices obtained through unique markets or value-adding should be recognised in PAP calculations.</p> <p>Recommendation 10: For input-controlled fisheries, PAP should be based on the fisher's best five or seven years within the past 10, to reflect genuine activity without penalising exceptional circumstances.</p> <p>Recommendation 11: For unitised fisheries, PAP should be applied at a consistent per-unit rate to all entitlement holders.</p> <p>Recommendation 12: The PAP methodology, including worked examples, should be published early in the process to provide clarity and certainty to licence holders.</p>
Asset Impact Payment (AIP)	<p>Recommendation 13: AIP should be considered where full surrender of licences is likely to result in a significant volume of vessels/gear entering the market, reducing asset values.</p> <p>Recommendation 14: Feedback from fishers should inform whether asset repurposing or resale is intended, or whether specific support measures (e.g. scrapping schemes, transition grants) would be more appropriate.</p> <p>Recommendation 15: Eligibility for AIP should be clearly defined in advance, with simple application processes and evidence requirements.</p> <p>Recommendation 16: Consideration of AIP should extend to vertically integrated businesses where asset value loss extends beyond boats and gear.</p> <p>Recommendation 17: Valuation methods should be transparent and communicated upfront, whether via independent valuations or fixed compensation rates.</p>
Solatum Payment (SP)	<p>Recommendation 18: Solatum payments should be included in future WA compensation and adjustment schemes, consistent with national and international practice.</p>

	<p>Recommendation 19: A solatium should be calculated based off the combined amounts of a market value component plus a profit adjustment payment. There should be no solatium paid on any asset impact payment component.</p> <p>Recommendation 20: The rate of solatium should be clearly defined and communicated upfront, with fishers given certainty about eligibility and calculation.</p> <p>Recommendation 21: Government should undertake further consultation with the fishing industry to determine an appropriate solatium percentage.</p>
FRICMA - Applicable to current processes (South Coast and Greater Kimberley Marine Parks)	<p>Recommendation 22: Solatium should be incorporated into FRICMA compensation calculations.</p> <p>Recommendation 23: Multipliers on lost catch could be used to better reflect indirect operational impacts arising from the marine park.</p> <p>Recommendation 24: In determining FRICMA compensation, consideration of whether there is a genuine economic benefit (and ability to increase catches) to remaining fishers as a result of a VFAS needs to be made on a case by case basis.</p>
FRICMA - Recommendations which would require legislative reform	<p>Recommendation 25: Government should consider legislating a maximum solatium payment under FRICMA.</p> <p>Recommendation 26: Government should consider legislative reform to allow compensation for foregone income/profit, not just market value loss.</p> <p>Recommendation 27: Shifting away from a market based analysis of loss arising from the implementation of a marine park, and removing the offset for any VFAS outcomes, could provide fisheries with greater certainty and help their decision making.</p>
<p>Recommended formula</p> <p>VFAS input controlled fishery</p>	<p>Recommendation 28: A VFAS formula for input-controlled fisheries impacted by Kimberley and South Coast marine parks where true market value is not known, should be:</p> <p>Compensation = [(Base value x 1.5) + PAP] + Solatium Where Base value = average GVP for whole fishery for one year PAP = individual fishers average GVP for one year</p>

	'market value proxy' = [(Base value x 1.5) + PAP]
Recommended formula VFAS unitised fishery	<p>Recommendation 29: A VFAS formula for unitised fisheries impacted by Kimberley and South Coast marine parks where true market value is not known should be:</p> <p>Compensation = [Base value x 2.5] + Solatium Where Base value = average GVP for whole fishery for 1 year 'market value proxy' = [Base value x 2.5]</p>
Recommended formula FRICMA input controlled fishery	<p>Recommendation 30: A FRICMA formula for input-controlled fisheries impacted by Kimberley and South Coast marine parks where true market value is not known, should be:</p> <p>Compensation = ['Market Value Proxy' x % lost] + [2x multiplier] + solatium The % lost figure represents the lost area of the fishing block proportional to the marine park sanctuary zone The market value proxy would be calculated consistent with recommendation 28 above (i.e. [(Base value x 1.5) + PAP]) The additional multiplier is to account for increased operating costs post marine park.</p>
Recommended formula – Special consideration	Recommendation 31: Some fisheries have unique characteristics that may require individual consideration which deviates from the standard formula (i.e. Abalone due to sessile nature).
VFAS Scope	Recommendation 32: In determining the scope of a VFAS for the South Coast Marine Park, in circumstances where a licence holder in an 'eligible' fishery holds entitlement in multiple zones (which are located both in the area of the marine park and outside of the marine park), Government should consider purchasing units from zones outside of the marine park also to ensure business viability.

Providing Feedback

The Compensation Working Group invites authorisation holders in commercial fishers impacted by the Greater Kimberley and South Coast Marine Parks to provide comment on the issues raised in this paper by submitting feedback to Compensation.feedback@dpird.wa.gov.au.

Please indicate which principle, formula or recommendation your feedback relates to.

Submissions are due by **10 October 2025**.

Should you have any queries please email Compensation.feedback@dpird.wa.gov.au.

Appendix - WAFIC Position Statement

Note: *This is WAFIC's industry position. It is intended to sit separately to the WG discussion paper and to make clear the industry's expectations and non-negotiables.*

Why this matters

WAFIC chairs the WG, but our role is not to rubber-stamp Government processes. We are here to ensure that compensation frameworks are fair, transparent and fisher-centred.

The South Coast and Kimberley marine parks represent the most significant access changes in decades. For many operators, these processes threaten not only their fishing businesses, but also their families, crews, and regional communities.

Past compensation processes, such as Ngari Capes, were slow, opaque and adversarial — leaving fishers drained and undervalued. This time, WAFIC is pushing for genuine reform, drawing on the FRDC report and the lived realities of WA fishers.

WAFIC's Priorities

Fair Valuation

- Licence sales alone do not capture true losses, especially in small or low-trading fisheries.
- Profit Adjustment Payments must reflect effort, innovation, and real markets achieved by fishers.
- Asset Impact Payments must consider when loss of one licence collapses a whole business structure.
- Solatium is essential to acknowledge stress, uncertainty, and community disruption.

Scope Matters

- Compensation must reflect whole fishing businesses, not just single licences.
- Associated licences and zones (e.g. South Coast abalone) must be in-scope where viability depends on them.
- Lessees and family operators who bear real financial risk must not be excluded.

FRICMA Reform

- FRICMA's narrow focus on "market value loss" is outdated and unfair.
- Government must reform FRICMA to include foregone income/profit and legislate for solatium.
- VFAS/FRICMA interaction rules must not disadvantage fishers through offsets or sequencing.

Process and Support

- Compensation is a Government-led process. WAFIC's role is to ensure that fishers' concerns, experiences and priorities are strongly represented and not lost in bureaucracy.
- DPIRD are responsible for implementing these schemes, and WAFIC will hold them accountable for delivering fair, transparent processes.
- Fishers need clarity upfront— formulas, data, assumptions, and timelines must be published before any scheme opens.
- Compensation must be timely, not years after impacts occur. Delays only compound stress and hardship.
- WAFIC recognises that fishers cannot be expected to navigate complex processes alone. Access to independent support is critical, including:
 - Legal advice: Aquarius Lawyers is currently offering a free 30-minute consultation for fishers. This is an opportunity to discuss legal questions, review compliance, or simply get practical advice tailored to your business.
 - Financial and tax advice: WAFIC supports an ATO class ruling being sought to give certainty on the tax treatment of compensation payments.
 - Counselling and business support: Services like the Rural Financial Counselling Service can provide free financial advice, and WAFIC is advocating for this to be expanded to include fisheries-specific support.

Participation

- Participation is voluntary. But this is the opportunity to shape recommendations before they go to the Minister, with the aim of improving the VFAS offer.

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